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THE
COLLECTION LAWS

OF THE

SEVERAL STATES,

AND THE

DISTRICT OF COLUMBIA,

COMPRISING, IN A CONDENSED FORM, THE LAWS RELATING TO

IMPRISONMENT FOR DEBT; ATTACHMENT;

JUDGMENT AND EXECUTION;

JURISDICTION OF JUSTICES OF THE PEACE; EXEMPTION;

THE STATUTE OF LIMITATIONS; RIGHTS OF MARRIED WOMEN;
INTEREST AND USURY, &C., &C.

DESIGNED AS A TEXT-BOOK FOR

Merchants and Business Men generally;

AND A

BOOK OF REFERENCE FOR MEMBERS OF THE LEGAL PROFESSION.

COMPILED BY

JAMES D. BROWN.



PHILADELPHIA:
LIPPINCOTT, GRAMBO & CO.

1855.

LA 11750.

Entered according to Act of Congress, in the year 1854, by

JAMES D. BROWN,

In the Clerk's Office of the District Court of the United States, in and for
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PREFACE.

The undersigned, having been engaged for a number of years in the collection of claims, felt the want of a knowledge of the laws of the several States relating to the subject of collections, and believing that a book containing, in a condensed form, the laws of the different States relating to that subject would be acceptable to the mercantile community, conceived the design of publishing one.

To accomplish this object, it became necessary to collect data from reliable sources, and the following pages are submitted as the result of his efforts. The work has been compiled principally from the Statutes, by gentlemen of high legal attainments, and in every way qualified for the task. Their names will be given in their appropriate place, and will be a sufficient guarantee for the accuracy of the work.

No originality is claimed, except in the arrangement; in which, and in supervising the publication, the undersigned has had the able and efficient aid of EDWARD M. PAXSON, Esq., of the Philadelphia Bar.

The design of the work is to furnish to merchants, and business men generally, such information in regard to the laws of the several States, as is essential to the proper transaction of their business.

Every merchant, when he sells a bill of goods upon credit to a trader residing in another State, ought to have some knowledge of the laws of that State, to which he may have to resort to compel payment. This volume will furnish him with this information, and with perfect accuracy. It will also furnish him with information as to the limitation of actions, whether on notes or bills, or on open book accounts; of the amount and kind of property exempt from sale under execution; of proceedings by attachment; of the rates of interest

made legal by statutory enactment, and the penalty for exceeding it; of the nature and extent of the husband's control over his wife's property, and when, and under what circumstances a debtor may be imprisoned.

Information of this kind cannot be otherwise than important to the merchant dealing with traders in another State.

In addition to this information, a list of Attorneys is given, with whom they may correspond in relation to their business, with perfect confidence in their reliability, as they are the same with whom the undersigned has had a business intercourse for a number of years, and known to him to be prompt, efficient, and reliable. No one of questionable integrity has or will be admitted.

J. D. BROWN.

ACKNOWLEDGMENT.

The undersigned acknowledges himself under obligations to the following legal gentlemen, for their valuable services in furnishing the data from which the following pages are compiled:—

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MAINE.

When a Debtor may be Arrested.

Any person, whether a resident within this State or not, may be arrested and held to bail, or committed to prison on *mesne process*, on any contract, express or implied, when the sum demanded amounts to ten dollars, or on a judgment founded on a contract, when the debt originally recovered, and still remaining due, is ten dollars or more, exclusive of interest, on such judgment; when the debtor is about to depart and reside beyond the limits of the State, with property or means exceeding the amount required for his immediate support: provided that the creditor, his agent or attorney, shall make oath before a Justice of the Peace, to be certified by such Justice on said process, that he has reason to believe, and does believe that such debtor is about to depart and reside, and to take with him property or means as aforesaid, and that the demand in said process, or the principal part thereof, amounting to at least ten dollars, is due him.

The debtor so arrested is detained in the custody of the officer until he give a good and sufficient bond, with surety, or sureties, to the acceptance of the creditor, his agent or attorney, approved by two Justices of the Peace and quorum of the county where the arrest may be made, one selected by the debtor, and the other by the creditor, in double the sum of the debt for which he is arrested, and of the costs thereon, conditioned that he will within fifteen days after the last day of the term of the Court at which judgment shall be rendered in said suit, notify the judgment creditor, his agent or attorney, to attend at a certain place within the county, and at a time to be fixed, within thirty days after such notice, and not less than fifteen days, for the purpose of making a true disclosure of his business affairs and property, on oath, before two Justices of the Peace and quorum, one selected by the creditor and the other by the debtor.

Or the debtor, when arrested, may at once give notice to the creditor, his agent or attorney, while in custody of the officer, that he will make a disclosure; which notice shall be given not less than one day for every twenty miles' travel, exclusive of the Lord's day: failing to do either of these, he shall be committed to jail.

The debtor may be arrested on an execution founded on any contract, express or implied, when the amount of the debt exceeds ten dollars. When so arrested, he may give a bond similar to that in case of arrest on *mesne process*, conditioned that he will, within six months thereafter, cite the creditor before two Justices of the Peace and quorum, for the purpose of submitting himself to an examination, on oath, in regard to his property. Or he may, while in jail, give the creditor fifteen days' notice of his intention to disclose, and cite him to appear before two Justices of the Peace and quorum.

At the examination before the Justices for the purpose of making a disclosure, any property disclosed, not exempted by statute, goes to satisfy the execution. If the Justices are satisfied that the disclosure is true, they release the debtor from arrest, and a debtor so released is not liable to arrest again on this debt.

Of the Courts and Process.

Besides the Justice Courts which have original jurisdiction in matters of twenty dollars and under, there is but one Court—the Supreme Judicial Court. In Cumberland County there are held annually three terms of this Court for the trial of civil causes, and one law term. An action must be commenced at least fourteen days before the Court at which the action is returnable sits. But an action may be commenced at any time, provided four days' notice be given before the Court at which the action is returnable sits. If a corporation be a party to an action, thirty days notice must be given.

If a defence is made, it frequently happens that a judgment cannot be obtained under three terms.

Jurisdiction of Justices of the Peace.

Justices of the Peace, and Judges of Municipal and Police Courts have original jurisdiction in all matters of twenty dollars and under. Any party aggrieved by the decisions of

a Justice of the Peace, or Judge of a Municipal or Police Court, may appeal to the next Supreme Court in the same County, provided such appeal be entered within twenty-four hours after judgment is rendered.

Justices of the Peace have no jurisdiction in cities or towns where Municipal or Police Courts are established, in civil actions, or in criminal affairs.

Of Execution, Attachment and Exemption.

All the real estate of a debtor in possession, reversion, or remainder, or fraudulently conveyed, or of which he has been colorably or fraudulently disseized for the purpose of defrauding his creditors, and all rights of entry into land, and rights of redeeming land mortgaged, may be taken in execution for his debts. All real estate, and rights to real estate which may be taken in execution for his debts, may be attached on *mesne process*, and held as security to satisfy the judgment for damages and costs, which the plaintiff may recover.

All the personal property of a debtor is liable to attachment on *mesne process*, or to be taken in execution, excepting a few articles of household furniture, a workman's tools, a small amount of provisions and necessities for family use, and a few other small matters of a kindred nature. Any one may also have five hundred dollars' worth of real estate exempted, provided he shall file in the registry of deeds in the county where the property is situated, a certificate stating his wish that this amount of real estate be exempted. There are but few who avail themselves of the benefit of this statute.

Of the Statute of Limitations.

All actions of debt founded upon any contract or liability not under seal, shall be commenced within six years next after the cause of action shall accrue, and not afterwards.

In actions of debt, or upon the case founded upon any contract, no acknowledgment is allowed as evidence of a new and continuing contract, unless it be an express one; and made in writing. The Statute of Limitations does not run when the debtor is living beyond the jurisdiction of the Court.

In case of specialties, or sealed instruments, a presumption of payment arises after the lapse of twenty years. This

presumption, however, is open to testimony going to show the fact of non-payment.

Of the Rights and Privileges of Married Women.

Any married woman may become seized or possessed of any property, real or personal, by direct bequest, demise, gift, purchase, or distribution, in her own name, and as of her own property, exempt from the debts or contracts of her husband. It must be evident that the property held by the wife was not obtained or purchased with the money or property of the husband, and that the same was not conveyed directly or indirectly by the husband to the wife without adequate consideration, for the purpose of defrauding the creditors. The property of the husband is exempt from liability for the debts or contracts of the wife made or contracted before marriage.

A married woman is not liable to arrest for debt.

Of Interest and Usury.

The legal rate of interest in this State is six per cent. A contract for a higher rate of interest is void only for the excess. If more than six per cent. is paid, the excess can be recovered by a suit at law. A contract for a larger rate of interest, except in case of marine contracts, or insurance, or the course of exchange, cannot be enforced by the laws of this State.

Consignees and Factors.

Every person in whose name any merchandize shall be shipped, shall be deemed the true owner thereof, so far as to entitle the consignee of such merchandize to a lien thereon for any moneys advanced, or negotiable security given, by such consignee, to and for the use of the person in whose name such shipment shall have been made, and for any money or negotiable security received by the person in whose name the shipment shall have been made, to and for the use of any such consignee.

Every factor or agent entrusted with the possession of any bill of lading, custom house permit, or warehouse-keepers' receipt, for the delivery of any such merchandize, and every such factor or agent not having the documentary evidence of title, who shall be entrusted with the possession of any

merchandize for the purpose of sale, or as a security for any advances to be made or obtained thereon, shall be deemed to be the true owner thereof, so far as to give validity to any contract made by such agent with any other person, for the sale or disposition of the whole, or any part of such merchandize, any money advanced, or negotiable instrument, or any other obligation in writing given by such person upon faith thereof.

Every person who shall accept or take such merchandize in deposit from such agent, as security for any antecedent debt or demand, shall not acquire thereby, or enforce any right or interest in or to such merchandize or document, other than was possessed, or might have been enforced by such agent at the time of such deposit.

The true owner of any merchandize so deposited shall not be prevented from demanding and receiving the same, upon re-payment of the money advanced, or on restoration of the security given on the deposit of such merchandize, and upon satisfying such lien as may exist thereon in favor of the agent who may have deposited the same; nor from recovering any balance remaining in the hands of the person with whom such merchandize shall have been deposited, as the produce of the sale thereof, after satisfying the amount justly due to such person by reason of such deposit, and also after satisfying all just expenses arising on such merchandize.

NEW HAMPSHIRE.

When a Debtor may be Arrested.

No female shall be arrested or imprisoned upon any suit in any action founded on contract. No person entitled to vote at any town meeting shall be liable to arrest upon any civil process, on the day on which such meeting is held. No officer or soldier shall be liable to arrest upon any civil process whilst going to, returning from, or attending at, any military exercise or parade, or at any Court Martial or Court of Enquiry which it shall be his duty to attend. No executor or administrator shall be liable to arrest for any cause or action against any person deceased. No person shall be liable to arrest in any real action, or action of ejectment. No person shall be arrested or imprisoned in any action founded on a contract, unless the debt or damage for the recovery of which such action may be brought, exclusive of all the costs, shall exceed the sum of \$13,33. No person shall be arrested upon any suit or execution founded on a contract made after the first day of March, A. D., 1841, unless the plaintiff or some one in his behalf shall make an affidavit before a Justice, on the back of such writ, that in his belief the defendant is justly indebted to him in a certain sum exceeding \$13,33, and that he conceals his property so that no attachment nor levy can be made; or, that there is good reason to believe he is about to leave the State to avoid the payment of his debts.

The defendant in such case, when arrested, may require the officer making the arrest, to carry him before two Justices; and such Justices upon considering his affidavit, and such evidence as may be laid before them, if they believe he does not so conceal, and has no intention to leave the State, may make an order for his discharge upon the said writ or execution.

Of Suits for the Recovery of Money.

In all cases where the sum in controversy exceeds \$13,33, suit must be brought in the Court of Common Pleas, which

has original jurisdiction of all actions civil and criminal, except such as are within the jurisdiction of Justices of the Peace; and of all appeals from the said Justices. This Court is held semi-annually, in each county. If both parties live in the same county, the action must be brought in the county where they reside; if the parties reside in different counties, the action must be brought in the county where *one* of them resides; if for real estate, in the county where the land lies. If the plaintiff resides out of the State, in transitory actions, he may bring his suit in any county he chooses. All suits must be endorsed on the back, by the plaintiff, his agent or attorney, being an inhabitant of the State; and if the plaintiff resides out of the State, by some responsible person who resides within the State, who thereby becomes liable to the defendant for costs. All writs must be served fourteen days before the sitting of the Court to which they are returnable; and if against a corporation, thirty days before the same.

About twenty-three days is the shortest time in which money can be collected by process of law; but there is no general rule, and it not unfrequently requires from two to six months to obtain judgment. Where the case is contested, it sometimes requires a year or more. Executions may be levied and collected in six days, and where property is attached on the original writ, should be levied within thirty days from judgment, and are often levied and collected within that time.

Of the Jurisdiction of Justices.

Justices of the Peace have jurisdiction within their several counties, to hear, try, and determine all pleas and actions in which the title to real estate shall not come in question, where the debt or damages demanded does not exceed \$13.33.

An appeal lies, in all cases, from the Justice to the Court of Common Pleas of the county. Every appeal, however, must be claimed within two hours after the judgment is rendered, and shall not be granted unless the party appealing shall enter into recognizance to the adverse party, with sufficient sureties in the sum of \$20, to pay the costs which may be recovered against him.

Of the Stay of Execution.

An execution may be stayed by an injunction granted by a Judge of the Superior Court, to whom application may be made, showing by affidavit that injustice may be done by a levy and collection of the execution; and if the Judge is satisfied that such is the fact, he will grant an injunction to stay the execution until the matter may be enquired into, and set right in Court.

There are no laws in this State providing for stay of execution, in any other manner than as above stated.

Of Attachments.

All property, real and personal, which is liable to be taken in execution, may be attached upon the original writ, and held as security for the judgment the plaintiff may recover.

When the goods or estate of any person shall be so attached, a summons in the form prescribed by law shall be delivered to the defendant, or left at his usual place of abode, with the name and office of the officer serving the same by him endorsed thereon. Every such summons shall set forth the sum in the note or obligation declared upon, with the endorsement and dates thereof, the amount of the account; and in actions of covenant, what sum is demanded in damages, and for what; and in all cases shall briefly give to the defendant the same information which the declaration gives more at large, and shall contain the substance thereof. If any defendant is not an inhabitant of the State, and the writ is not served on him in person, but his goods or estate within the State are attached, an attested copy of the writ, with an attested copy of the return, may be given to the defendant, or left at his usual place of abode, or left with his agent lawfully authorized to appear for him; or with his tenant on or near the land attached, when the proceedings are against real estate.

Of Foreign Attachment, or the Trustee Process.

The plaintiff may insert the names, in his writ, of as many persons as trustees as he may deem necessary, at any time before the process is served upon the principal defendant, but not after. The service must be made on the principal, by leaving with him a copy of the writ, and not a summons.

Every person summoned as trustee as aforesaid, having in his possession any money, goods, chattels, rights, or credits of the principal defendant at the time of the service of such writ upon him, or at any time after such service and before his disclosure, shall be adjudged a trustee therefor.

No person summoned as trustee shall be charged, as such, on account of the personal services or earnings of the wife of the debtor at any time, or on account of any labor performed by the debtor, or any of his family after the service of the process, or within fifteen days prior to such service.

Of the Exemption Laws.

The following property is by law exempt from attachment, and from levy and sale under execution:

The wearing apparel necessary for the use of the debtor or his family; comfortable beds, bedsteads and bedding necessary for the debtor, his wife and children; household furniture to the value of twenty dollars; one cow, and one and a half tons of hay; one hog and one pig, and the pork of the same when slaughtered; tools of his occupation to the value of twenty dollars; six sheep and fleeces of the same; one cooking stove, and the necessary furniture belonging to the same; provisions and fuel to the value of twenty dollars; the uniform, arms, and equipments of every officer, and private, in the militia; the debtor's interest in one pew in any meeting-house in which he or his family usually worship; the debtor's interest in one lot or right of burial in and cemetery.

Homestead Exemption.

The family homestead of the head of each family shall be exempt from attachment and levy, or sale on any execution, on any judgment rendered on any cause of action accruing since the first day of January, A. D., 1852: *Provided*, such homestead shall not exceed in value five hundred dollars; such homestead shall not be assets in the hands of an administrator for the payment of debts, nor subject to the laws of distribution or devise, so long as the widow or minor children, or any or either of them, shall occupy the same; and no release or waiver of such exemption shall be valid, unless made by deed executed by the husband and wife, with all the formalities required by law for the conveyance of real estate; or if the wife be dead, and there be minor

children, by such deed executed by the husband, with the consent of the Judge of Probate for the county in which the land is, endorsed on said deed.

Such exemption shall extend to any interest which the debtor may own in such homestead, and to any interest in any building occupied by him as a homestead standing on land not owned by him, to an amount not exceeding five hundred dollars.

No sheriff or other officer is permitted to take any of the property, real or personal, exempted by law as above stated, either upon writ or execution.

We have no form of note waiving right of debtor to avail himself of exemption laws. If the debtor surrenders any property exempt from attachment to the creditor, he does it voluntarily and not from compulsion of law.

Of Mortgages of Personal Property.

There is a law in this State providing for the mortgaging of personal property, which is much in use, and the importance of which is deemed to be sufficient to warrant an abstract of the same in this place. The law provides that personal property and growing crops of every description, are subject to mortgage; (chap. 128, Compiled Statutes;) possession of the mortgaged property must be delivered to, and retained by the mortgagee, or the mortgage must be recorded in the office of the Clerk of the town in which the mortgagor resides, at the time of making the same. The debtor may mortgage any personal estate he may own, although exempt by law from attachment, as for instance his last cow, to secure a creditor, or to raise money for any purpose whatever. And the mortgagee may, at any time after thirty days from the time of the condition broken, sell the mortgaged property, or any part thereof, at public auction. Notice of the time, place, and purpose of such sale, being posted up at two or more public places in the town in which such sale is to take place, at least four days prior thereto.

The following is a correct form of a mortgage of personal property, in accordance with the foregoing provisions:

KNOW ALL MEN—*That* I, John Doe, of Bath, in the County of Grafton, and State of New Hampshire, in consideration of twenty dollars, to me paid by Richard Roe, of Bath, in said County, do hereby sell, assign and convey, to the said Richard Roe, his heirs and assigns forever, the fol-

lowing property, viz: my red cow, five years old past, with a star in her forehead, now in my barn in said Bath, of the value of twenty dollars. To hold to himself, his heirs and assigns, free of all lawful claims,—Provided however, if I pay my promissory note, of even date, for the sum of twenty dollars, payable to the said Richard Roe, or order, in one year from date, with interest annually, according to the tenor and effect of said note, then this sale and deed to be void, otherwise to remain in full force. In witness whereof I have hereunto set my hand and seal this first day of May, Anno Domini, eighteen hundred and fifty-four.

Signed, sealed and delivered

in presence of

SAMUEL JOHNSON.

JOHN DOE, [*Seal.*]

We severally swear that the foregoing Mortgage is made for the purpose of securing the debt specified in the condition thereof, and for no other purpose whatever, and that said debt was not created for the purpose of enabling the Mortgagor to execute said Mortgage; but is a just debt, honestly due and owing from the Mortgagor to the Mortgagee.

JOHN DOE.

RICHARD ROE.

GRAFTON, SS.

MAY 1, A. D., 1854.

Then the said John Doe, and the said Richard Roe, severally took and subscribed the above oath before me.

TIMOTHY HARD,

Justice of the Peace.

It will be observed, that the mortgage must be sworn to by the parties. After taking such a mortgage, and placing it on record, as before stated, the creditor commonly allows the debtor to remain in possession of the personal property mortgaged the same as before, until the condition of the mortgage is broken, and not unfrequently for a long time afterwards. If the creditor wishes to recover his debt, or make sale of the mortgaged property, he notifies the debtor to that effect, and proceeds to sell in the manner before set forth.

Of the Statute of Limitations.

Actions founded on accounts and notes not under seal, must be brought within six years from the time the cause of action accrued, and not afterwards.

Actions of debt founded on any judgment, or recognizance, or upon any contract under seal, may be brought within twenty years from the time the cause of action accrued, and not afterwards. Actions upon notes, secured by mortgage, may be brought so long as the plaintiff is entitled to commence any action upon the mortgage.

Any infant, married woman, or insane person, may commence either of the personal actions aforesaid, within two years after such disability is removed.

If the defendant, at the time the cause of action accrued or afterwards, was absent from, and residing out of the State, the time of such absence shall be excluded in the computation of the several times before limited for the commencement of personal actions. — Chap. 192, compiled Stat.

A non-resident creditor would lose his remedy by not suing his note, or account, within six years after the cause of action accrued against a defendant residing in this State. The principal questions, which arise upon the construction of this statute, are as to what takes a claim out of the statute of limitations that is barred by the statute.

A new promise to pay a note, or account that is outlawed, revives the claim, and the new promise need not be in writing, but must be proved.

A bare acknowledgment of a debt does not take the case out of the statute, but is evidence from which a jury may, if there be nothing to rebut it, presume a promise to pay which will take the case out of the statute.—*Atwood vs. Coburn*, 4 vol., N. H. Rep., page 317. *Stanton vs. Stanton*, 2 N. H. Rep., 425. *Buswell vs. Roby*, 3 N. H. Rep., 467.

Of the Rights of Married Women.

Any married woman of the age of twenty-one years or upwards, and of sound mind, who may be seized in her own right of any real estate in this State, shall have power to give, devise, and dispose of the same by will in writing, when signed and sealed by the deviser, and duly attested and subscribed by three credible witnesses in her presence, and executed with the formalities required by law in other cases: *Provided*, however, that any such will shall in no case affect injuriously the rights acquired by the husband in

any estate so devised, by virtue of the marriage contract.—Sec. 11, Compiled Stat.

Any married woman may join with her husband in any conveyance of real estate, and any married woman may join with her husband in release of dower, although she is not of full age.—Sec. 10.

Any devise, conveyance, or bequest of property, real, personal, or mixed, may be made to any married woman, to be held by her without the intervention of a trustee, to her sole and separate use, free from the interference or control of her husband; and she shall hold, possess, and enjoy the estate, so given, devised, conveyed, or bequeathed accordingly, and shall in like manner hold any property which she may receive under the provisions of any deed of trust, made either before or after marriage.—Sec. 13.

Widow.—The Judge of Probate may make to the widow of any person deceased, intestate or testate, the widow not being mentioned in such deceased person's will, a reasonable allowance out of the personal estate for her present support; and in the decree of distribution of the estate, the whole or such part thereof as the Judge may decree reasonably, shall be accounted as part of the share.

Dower.—The widow of every person deceased, shall be entitled to her dower in the real estate of which her husband was seized during coverture.

The widow of every person deceased testate, leaving lineal descendants, is entitled, in addition to her dower, to one-third part of all the estate, remaining after the payment of the debts and expenses of administration, if no provision is made for her by the will of the deceased, or if she shall waive such provisions. If the deceased is intestate, and leaves no such lineal descendants, the widow is entitled to one-half of all the estate remaining after the payment of the debts and expenses of administration, in addition to her dower. If the widow, in either of the above cases, elect, she shall be entitled, including her dower, to a portion of the estate remaining after payment of debts and expenses of administration, not exceeding that which her husband received from her, or in her right during coverture.

Of Interest and Usury.

Six per cent. is the legal rate of interest in New Hampshire, and if more be taken, the party forfeits three times the amount unlawfully taken.

Of Factors and Consignees.

There are no statutes in this State applicable to sales on commission by resident merchants, on account of non-residents. The subject is open for the parties to make such contract as they please, regulated only by the customs and usages of merchants.

VERMONT.

When a Debtor may be Imprisoned.

In no case can a debtor's body be arrested and imprisoned, unless the creditor files with the authority issuing the writ, an affidavit stating that the debtor is about to abscond or remove from the State, and that he has secreted goods, chattels, or moneys to the amount of *twenty dollars*, or sufficient to pay the debt, and then the creditor is entitled to a *capias* against the body. After being arrested the debtor may notify the creditor, and appear before the authority issuing the writ at once, and try the question as to whether he is about to abscond. If, upon such trial, the creditor fails to prove such an intention on the part of the debtor, the latter is entitled to a discharge from the arrest.

Of Attachment and Trustee Process.

A writ of attachment may issue upon any debt, and the defendant's property can be attached to secure the debt. If it is perishable, either party may apply to the officer to sell the same, to save it from perishing or being consumed by keeping. All the property of the debtor is subject to attachment, whether in goods or chattels, or lands. Debts, dues and demands can be attached, except such as are exempted by statute. When debts or dues are taken, it must be by a *trustee process*, calling on the person owing the debtor, or holding his funds, to disclose in Court how he is indebted, &c. But trustee process can in no case issue when the demand is less than *ten dollars*, or when the amount in the hands of the trustee is less than that amount.

Of the Courts and Suits therein.

There are two County Courts in each county in every year, and they have jurisdiction of all demands that are over *one hundred dollars*, or that come up by appeal from a Justice of the Peace, and of all actions of book account

where the debit side of the plaintiff's book exceeds \$100, whatever the balance may be. All writs may run into and be served in any county in the State; and if served in a county other than the one where they are made returnable, they must be served at least twelve days before the Court day, and if a Justice's writ, not more than sixty days before the Court day. If served in the county where they are made returnable, a Justice's writ may be made returnable in six days from the time of service.

Where property is taken on a writ, the written consent of the parties will authorize the officer to proceed and sell the same on the writ. Unless there is a defence, the plaintiff is entitled to judgment and execution on the return day of the writ before a Justice, and can sell property on his execution in fourteen days. If real estate is taken, it is appraised to the creditor, and his execution levied thereon. The debtor then has six months from the day of the levy to redeem the said real estate—and if after that time, or failure to do so, he must surrender the possession thereof to the creditor. If the demand is less than \$53.00, the execution runs sixty days; but if over that sum, and issued by a Justice, it runs one hundred and twenty days. Executions from the Supreme Court run sixty days only.

Where a defendant is willing that his creditor should have a judgment, and makes no defence, money on demands less than one hundred dollars, may usually be collected in from three to four months—on demands over one hundred dollars it will ordinarily require six months, and should the debtor resist, he can delay collections about a year, and make large bills of costs.

Justices of the Peace have civil jurisdiction of all debts, dues, and demands less than *one hundred dollars*, and their judgments are final to the amount of *ten dollars*, and can only be stayed by a writ of *Audita Querela*, which is used to relieve a party who has not had his day in Court.

An appeal lies from the Justice to the County Court where the sum in demand exceeds ten dollars.

A Justice may take a *confession of judgment* for any sum the parties may agree upon, and issue execution therefor.

Of Property Exempt from Execution.

The following articles are exempt from attachment and execution: Wearing apparel; household furniture; bedding; tools of trade; military arms and equipments; one cow; ten sheep and the product thereof; swine and the meat of one

swine; forage for the keep of one cow and ten sheep through the winter; ten cords of fire wood; ten bushels of grain; twenty bushels of potatoes; three swarms of bees, hives and honey; two hundred pounds of sugar; bibles and school books used in the family; grave stones lettered.

The *Homestead* of every house-keeper or head of a family, residing in the State, is exempt to the value of *five hundred dollars*, consisting of a dwelling-house and out-buildings, occupied as a homestead, and also the *product of said homestead*. The homestead is to be valued and ascertained by appraisers, and set out by the Sheriff. All other of the property is exempt by law, unless leased out by the debtor to the Sheriff or creditor.

Of the Limitation of Actions.

All actions of assumpsit on notes not witnessed, or settled accounts for goods sold and delivered, money had and received, on book accounts, and other simple contract debts, and actions on the case, are to be commenced and prosecuted within six years after the cause of action accrues.

Actions on notes, attested by a subscribing witness, shall be brought within fourteen years after the cause of action accrues. Actions on judgments, bonds and covenants, are to be brought in eight years after the cause of action accrues.

The effect of our statute upon non-resident creditors, unless beyond seas, is the same as upon resident creditors.

Rights of Married Women.

All of the wife's property, of every description, and whether in possession or in action, is exempt from the husband's debts; and if he absconds, she may, by petition, take and sell property as a single woman.

Interest and Usury.

Six per cent. is the rate of interest fixed by law, and if a greater sum is taken the excess can be recovered back. All contracts made in Vermont stand on the same basis; but contracts made abroad will carry the interest allowed by the law of the place where they are made.

Factors or Consignees are governed by the same laws as other dealers, and it is not material whether the consignee resides abroad or not. There is not any statute upon the subject in Vermont.

MASSACHUSETTS.

When a Debtor may be Imprisoned.

By the Revised Statutes, 1836, C. 90, S. 111, it is provided, that no debtor shall be arrested or held to bail for any debt on contract upon mesne process, unless the creditor or some person in his behalf, shall first make oath before a Justice of the Peace, that the plaintiff has a demand against the defendant, upon the cause of action set forth in the writ, which the deponent believes to be justly due, and upon which he expects the plaintiff will recover ten dollars or upwards; and that the deponent has reasonable cause to believe, that the defendant is about to depart beyond the jurisdiction of the Court to which the writ is returnable, and not to return until after judgment may be recovered, so that he cannot be arrested on the first execution which may issue upon such judgment.

When the plaintiff resides out of the State, he may bring suit against his debtor in any county of Massachusetts, the jurisdiction of the Court extending to the county where the debtor resides, and the communication being easy and rapid.

By Massachusetts Statutes of 1854, C. 63, no person can be arrested in an action of tort without a similar affidavit.

No defendant can be arrested on any judgment recovered in any civil action founded on contract, unless the damages shall exceed ten dollars.

If the defendant shall be arrested upon any execution issuing upon a judgment, or if at any stage of an action it shall appear upon trial, or by acknowledgment, or otherwise, that a defendant is indebted to the plaintiff, in a sum exceeding ten dollars, exclusive of costs, he may give a brief notice to the plaintiff of his intention to take the oath prescribed for poor debtors, and after submitting himself to an examination, stating such oath, he shall be discharged from

arrest, unless the plaintiff shall substantiate certain charges of fraud against him.

When arrested on mesne process, the debtor, by Statutes of 1844, C. 154, may obtain his release from arrest by a like proceeding. The oath required of the debtor by Revised Statutes, C. 98, S 9, is to the effect that he has no real or personal estate to the amount of twenty dollars, except the property exempted by law from execution, and that he has not concealed or conveyed any for the purpose of securing it to his own use or defrauding creditors.

When the debtor has given notice of his intention to take such oath, the creditor may present and file specific charges of fraud against him, which shall be investigated and determined by the Justices or other Magistrates empowered to administer the oath—either of such charges, if substantiated, shall prevent a discharge.

These charges may be—

First, That the debtor, since the debt was contracted, or cause of action occurred, has fraudulently conveyed away or secreted his estate.

Second, That he has within same period paid, or hazarded in some kind of gaming, prohibited by the State, money or property to the amount of \$100.

Third, That he has wilfully expended some part of his estate, to enable him to take such oath.

Fourth, That the debtor contracted the debt with an intention not to pay the same.

And either party may require a jury to try the question of fraud.

The debtor may, in all cases, give bail (with sureties competent to pay the claim) for his appearance to meet the execution.

When committed to prison, the plaintiff is liable for the expenses of his board, at the rate of \$1½ per week.

Females are not subject to arrest upon mesne process, or execution, in any action founded on contract.

Any person who shall be arrested on mesne process, in any civil action, for \$100, or upwards, and shall not give bail before the return day of process, or shall be imprisoned on mesne process, or execution for more than thirty days, in any such action, or who shall not dissolve an attachment on his property in any such action, during the term at which such action shall be entered, may be proceeded against as an insolvent debtor, and compelled to assign his property for the benefit of all his creditors.

Obtaining Goods under False Pretences.

By Revised Statutes, C. 126, S. 32. If any person shall designedly, by any false pretence, with intent to defraud, obtain from any other person any money, or any goods, wares, merchandize, or any other property, he shall be punished by imprisonment in the State Prison, not more than ten years, or by imprisonment in county jail not exceeding two years, and fine not exceeding \$500.

Under this act it has been repeatedly held, that misrepresentations of the capital, debts, or liabilities of a merchant, or mercantile firm, whereby goods were obtained on credit, would sustain a conviction.

It has also been determined, that gross misrepresentations made to a clerk or salesman, and by one partner, in behalf of his firm, would warrant conviction.

Upon requisition of the Governor of Massachusetts, parties from other States, indicted under this statute, have been surrendered for trial.

By a subsequent Statute Act of 1854, C. 12, false pretences, as to ability to pay, made in the purchase of property, are not punishable unless made in writing, and signed by the party to be charged.

Suits for the Recovery of Money.

In Massachusetts the taxable costs are light.

Justices of the Peace, and Justices' Courts, have a jurisdiction in their respective districts to the extent of one hundred dollars. As weekly sessions are held by them, and seven days' notice is sufficient, a judgment and execution is usually obtained within ten days from the date of the writ. In all civil actions, the suit is commenced by an attorney at law, and the declaration is usually appended to the writ.

Special pleading is abolished, and actions are either actions of contract or actions of tort. The defendant is expected to file his answer at the return term of the Court.

In case a claim exceeds \$20, the plaintiff may bring his suit to the Court of Common Pleas. This Court holds from two to four sessions yearly, in each county. In case the claim exceeds \$600, an original writ may be brought to the Supreme Judicial Court, upon an affidavit of the plaintiff or his agent to the amount of his claim.

If the plaintiff resides out of the State, and his claim exceeds \$500, he may bring suit in the Circuit Court of the

United States, two terms of which are holden annually in Boston, May 15th, 16th, and October 15th.

Its process runs to all parts of the State.

Judgments in Massachusetts are not a lien on real estate, and all writs in favor of plaintiffs resident out of the State, must be endorsed by some person within the State, who shall be liable for costs.

In all actions returnable to the Court of Common Pleas, or Supreme Judicial Court, the defendant will be defaulted, and judgment may be entered against him, unless he shall, within ten days after return day of writ, file an affidavit that he has a good defence.

Of Attachment.

In all civil actions, the plaintiff may cause the real or personal estate of defendant to be attached on the original writ, and such attachment will remain as a security for his claim, until final judgment and execution, unless dissolved by proceedings in insolvency, or by the death of defendant and grant of administration.

The defendant, however, may remove such attachment by filing a bond with sufficient sureties, to be approved by the Court, conditioned for the payment of the damages, &c., that shall be recovered in such action.

The attaching creditor, in case he finds the personal property of the debtor subject to mortgage, may pay off such mortgage, and hold a lien therefor upon the property attached.

Of Foreign Attachment or Trustee Process.

In case the creditor shall find the debtor has deposited any goods, effects or credits, with any person, bank or other corporate body, he may, in his original writ, insert the name of such trustee, and attach such property thus deposited as security for his claim.

Of the Stay of Execution.

The laws of Massachusetts allow no stay of execution, and the sheriff and other officers, who give heavy bonds, are required to enforce the execution with proper despatch. The execution may be levied at the option of the creditor on real or personal estate.

If levied on personal property, the same is sold by vendue; if upon real estate, the same is to be set off by three appraisers, one to be designated by the plaintiff, another by the sheriff, a third by the defendant. If on mortgaged real estate, the equity of redemption is to be sold by the sheriff.

In all levies on real estate, or sales of the same, the defendant is allowed one year to redeem the property.

Of the Exemption Laws.

The following property is by the statutes of Massachusetts exempted from attachment and execution :

The arms, uniform, ammunition and accoutrements of an officer or private required by law.

Such articles as from their *nature* or *situation* have been considered as exempt by the principles of common law as practised and adopted in Massachusetts.

Necessary apparel of the debtor, his wife and children; one bedstead, bed and necessary bedding for every two persons in the family; one stove, fuel to the value of ten dollars, household furniture not exceeding in value fifty dollars, the Bible and school books used in the family; one cow, six sheep, one swine, and two tons of hay; tools of trade to the amount of fifty dollars, right of burial and tombs used as repositories for the dead.

The Statutes of 1851, c. 340, also provide that the homestead of every debtor not exceeding in value five hundred dollars, whether held by lease, or in fee, may be exempted from attachment and execution, in case the deed of purchase shall set forth that it is designed to be held as a homestead under said statute. Or in case such design shall be declared in an instrument duly executed and recorded.

But such homestead shall be liable for taxes and debts incurred for the purchase thereof, and for any mortgages in case the wife shall join in the deed. Any excess of value of such homestead above five hundred dollars is subject to attachment and levy.

No release or waiver of the exemption of a homestead is valid, unless by deed duly recorded.

Of Parties Deceased.

Executors and administrators are not subject to suit until one year has expired.

Real estate is liable for the debts of the party deceased.

The funeral expenses and charges of the last sickness have priority; a moderate allowance also is made to the widow before the payment of debts.

Of Voluntary Assignments.

Under the modern statutes and decisions of Massachusetts, all assignments by insolvent debtors must be taken for the equal benefit of all the creditors; and assignments are usually, if not uniformly, made by application to a Commissioner of Insolvency.

Of Proceedings in Insolvency.

Any debtor resident in this State owing more than \$200, may apply to a Commissioner in the county where he resides, or where he transacts business, for the benefit of the Insolvent Act Statute of 1838, c. 163. Upon this application, the Commissioner appoints a messenger to take charge of his property, and issues a notice for a first meeting of creditors. At this meeting, the creditors who prove their claims elect an assignee, who may be required to give bonds, and the Judge assigns to him in trust for creditors all the property of the debtor.

Such assignment dissolves all attachments.

The creditor's claim must be proved by affidavit, before a Commissioner or Justice of the Peace.

If in case of a foreign creditor, his consignee may prove the same. The debtor to obtain his discharge must make oath that he has given true schedules of his property and creditors, and given up all his property not exempted by law from attachment; and in case his estate shall not pay fifty per cent., must procure within six months after the date of assignment, the assent of a majority in number and value of the creditors who have proved their claims.

And such discharge shall be of no effect, if the debtor shall obtain the assent of any creditor thereto by a pecuniary consideration.

The discharge will not impair the claims against the debtor contracted out of the State, and payable out of the State, in case they shall not be proved under the assignment. Nor will it exonerate him from his liabilities under trusts. It will be void also for perjury, preferences, or fraudulent concealment.

Of the Rights of Married Women.

By Revised Statutes, c. 77, Statutes of 1842, c. 74, and 1845, c. 208, it is provided that any married woman coming into Massachusetts to reside, without her husband, shall have the rights and incur the liabilities in trade of an unmarried woman. Also, that a married woman may, with her husband's consent, dispose of her property by will.

Further, that by ante-nuptial contract duly recorded in the county where the husband resides at the time of such record, the husband and wife may agree that she may hold her property to her separate use, free from the control of her husband, in which case it shall not be liable for his debts.

And any married woman may receive a conveyance by deed or will of property which she may hold apart from her husband, and free from his creditors.

No such property, however, shall be employed for the purpose of trade, but shall be invested in real estate, furniture, State stocks, United States stocks, corporate stocks, or personal securities.

Of the Statute of Limitations.

All actions to recover money due on any simple contract, not under seal, must be brought within six years from the time same became due. A promise in writing will revive the claim. Obligations under seal incur a presumption of payment after twenty years.

Of Interest and Usury.

Six per cent. per annum is the legal rate of Massachusetts. The penalty for any excess is a forfeiture of three-fold the whole interest taken.

Notes or bonds issued by railroad companies at six per cent., may be negotiated under par.

Of Consignees or Factors—Liens.

By Statute of 1845, c. 193, it is provided that in case any person in lawful possession of any merchandize shall ship the same to any consignee, and such consignee shall not, before making advances or giving securities to the shipper, have notice by bill of lading, or otherwise, that such shipper is not the bona fide owner thereof, then such consignee shall

be entitled to a lien on such merchandize for money advanced and securities given to the shipper, for or on account of such merchandize. It is also provided that every consignee entrusted with property for sale, or entrusted with any bill of lading consigning the same for sale, shall be presumed so far the owner as to give validity to any bona fide contract of sale made by him.

A subsequent Statute Act of 1849, c. 216, further provides, that in case any person entrusted with merchandize, and authorized to consign or sell the same, shall transmit or deliver it to any other person, such person shall have a lien thereon.

For all moneys or negotiable securities received by such party in whose name the consignment was made for the use of the consignee, or advanced to him by such consignee; such lien however is subject to the process that the consignee shall not hold it, unless at the time of such receipt in advance he had probable cause to believe the party in whose name the consignment was made was the owner of the merchandize, or had a legal interest therein to the amount of such lien. In case any person entrusted with merchandize with power to sell or consign, or having a bill of lading, a permit, certificate, or order for delivery of the same, shall pledge or deposit such merchandize or document, such pledge or deposit shall be valid security for all advances, although the depository shall know that the person making such pledge or deposit was an agent; provided such advances shall be made in good faith, and with probable cause to believe such agent was acting in good faith, and with authority so to do.

But in case such deposit or pledge be given for any antecedent debt, the depository shall acquire no rights or interest beyond those of the agent making such deposit or pledge; and said act is not to be construed to impair the customary lien of a consignee for expenses and charges, or to prevent the actual owner from recovering the merchandize from the consignee before a pledge, or from his assignees in insolvency, or from demanding the same on payment of advances, or from receiving the balance of proceeds after sale. In case of a fraudulent pledge or deposit, or misapplication of proceeds with intent to defraud, the consignee shall be adjudged guilty of a misdemeanor, and punished by fine and imprisonment.

RHODE ISLAND.

Of Process—Attachment—and herein of the Arrest of a Debtor.

By the Revised Laws of 1844, it is provided that all original writs may be writs of arrest, or summons, at the option of the plaintiff; but no writ of arrest shall issue against a female upon a contract not under seal. For the want of the body of the defendant to be found by the officer charged with the service of a writ within his precinct, (that is within the county,) the officer may attach the goods and chattels of the defendant; and if the defendant is absent from, or concealed within the State, his real estate may be attached—and in all cases of attachment on mesne process, the attached property shall be held to respond to the judgment, if any, recovered by the plaintiff. The rights, credits and other personal estate of defendants, in the hands of third persons, or corporations, may be attached under like circumstances, as real estate. If the claim is one hundred dollars, or more, the action must be commenced either in the Supreme Court, or Court of Common Pleas, if brought in the State Courts. If under one hundred dollars, and over twenty dollars, it must be brought in the Common Pleas; and if under twenty dollars, it must be commenced before a Justice of the Peace, or some Court exercising the jurisdiction of a Justice of the Peace.

Of the Judgment.

Judgments may ordinarily be obtained at the return term of the writ, unless the action is continued for cause shown; or unless the writ was served by the attachment of real estate, or by foreign attachment, and the defendant does not return to the State after the attachment, and before six days before the term of the Court to which the writ is returnable, when the action is to be continued one term, for the defendant to come in and answer the suit, if he sees fit.

Of the Execution.

Execution may issue at any time after five days from the rising of the Court; and for cause shown, may issue in term time, and is always made returnable at the next term of the Court from which it issued.

Personal property not exempt by law from attachment, and the real estate of a female, may be taken on execution, and for the want thereof, the body of the defendant, other than females, may be taken and committed to jail. • If the defendant is without the State, the like attachment of real estate may be made, as upon original writ.

Of the Discharge from Arrest.

Persons imprisoned for debt on mesne process, or on execution, or for the non-payment of any military fine, or town or State tax, or on execution awarded against him as defendant in any action of trespass and ejectment, or trespass quare clausum fregit, where the title to the close was in dispute, may complain to any Justice of the Supreme Court, or the Court of Common Pleas, or to any Justice of the Peace of the County where such person shall be committed, that he hath no estate wherewith to support himself in prison, or to pay prison charges, and shall request to be admitted to the benefit of the poor debtor's oath, such Justice shall cause a citation to be issued to the committing creditor, if within the State, and if not, to his attorney of record, to appear at a time and place appointed by said Justice, to show cause, if any he may, why the person complaining shall not be admitted to the poor debtor's oath, and be discharged from his imprisonment, which citation shall be served at least seven days before the return day thereof. Upon the return of such citation, the debtor shall execute a deed of assignment of all his property and estate not exempted by law from attachment, to the keeper of the jail, for the benefit of his creditors, in proportion to their respective demands. Then, if two Justices are satisfied upon an examination of the debtor, and the proofs submitted, that the debtor is entitled to be admitted to the poor debtor's oath, he has administered to him the oath in the form following, to wit: "I do solemnly swear that I have not any estate, real or personal, in possession, remainder or reversion, over ten dollars; and that I have not since the commencement of this suit against me,

“or at any other time, directly or indirectly, sold, leased, “or otherwise conveyed or disposed of, to, or entrusted any “person or persons whomsoever, with all or any part of the “estate, real or personal, whereof I have been the lawful “owner or possessor, with any intent or design to secure the “same, or to receive or to expect any profit or advantage “therefrom, for myself, or for any of my children or family, “or any other person; or have caused or suffered to be done “anything else whatsoever, whereby my creditors may be “defrauded: so help me God.” Upon the taking of which oath, the debtor is liberated from his confinement, but the debt remains undischarged.

Any defendant in any execution who would, if committed to jail thereon, be entitled to the benefit of the poor debtor's oath, may apply in the manner herein before mentioned, for a citation to his creditors to show cause why he should not be allowed the benefit of said oath, which citation shall be served seven days before the return day; and the defendant upon the return of such citation may be admitted to the poor debtor's oath in the same way, and the like proceedings shall be had, as if he had been committed to jail on said execution.

Any person committed to jail on execution, may be admitted to the liberty of the prison yard upon giving bond, with satisfactory sureties, to remain within its limits. But in case such person shall be so admitted to the limits of the prison yard, he shall, within a period of not more than thirty days, execute an assignment to some citizen of the State, of all his property not exempt from attachment, for the benefit of his creditors, in proportion to their demands; or within that time shall render himself to the keeper of the jail, to be committed to close prison.

A poor person may petition the Supreme Court for the benefit of the Insolvent Act, which, if granted to him, protects him from arrest only, and leaves his property exposed to be applied to the payment of his debts, as if the benefit of this act had not been extended to him.

Of Property Exempt from Attachment and Execution.

Mariners' wages shall not be liable to attachment until after the termination of the voyage in which such wages shall have been earned. The household furniture and family stores of a house keeper shall not be liable to attachment on any warrant of distress, or on any other writ, original or judicial: Provided the whole, including beds and bedding,

do not exceed in value the sum of two hundred dollars; or the necessary wearing apparel of any debtor, or that of his family; nor one cow, nor one hog, nor his working tools necessary for his usual occupation: provided the said tools do not exceed in value the sum of fifty dollars.

The *property of married women* is protected from attachment for the debts of their husbands, if it came to their hands, or if the marriage was contracted, since A. D. 1844.

Of the Statute of Limitations.

All actions on simple contracts are limited to be brought within six years from the time the cause of action accrued; but if the defendant is without the State during any portion of said six years, the operation of the statute is suspended while the defendant is absent.

Actions upon specialties are limited to twenty years.

A new promise, or an unqualified admission of the existence of a debt, operates to take the debt out of the operation of the statute.

Of Voluntary Assignments.

Assignments may be made as at common law, for the benefit of creditors, either with or without preference.

Assignees may be compelled to present an inventory of the effects assigned, and to give bond for the faithful execution of their trust, or for cause shown, may be removed.

Of Intestate Estates.

No action can be maintained against any executor or administrator, until after the expiration of one year from the time of their appointment, and all actions against them must be brought before the expiration of the three years after the time of their appointment, and the giving public notice according to law of such appointment by them.

Of Interest and Usury.

The interest fixed by law is six per cent. per annum; if any contract is made for any greater interest, it is void as to the excess.

CONNECTICUT.

Of the Courts.

These are—1st. The Supreme Court of Errors. 2d. The Supreme Court. 3d. The County Courts. 4th. The Probate Courts. 5th. The Justice Courts; all which are Courts of Record.

The Supreme Court of Errors is the Court of last resort in questions of law.

The Probate Courts exercise jurisdiction over the estates of deceased persons and insolvents, and over the persons and estates of minors, (or orphans,) lunatics and idiots.

The Superior, County, and Justice Courts are the proper tribunals for the trial of causes; the two former with a jury, the last without.

The Superior and County Courts are courts both of law and equity.

Justices of the Peace have jurisdiction to the amount of fifty dollars, subject to appeal to the County Court.

The County Court has final jurisdiction to the amount of one hundred dollars; but in all actions at law brought to the County Court, where the matter in demand exceeds one hundred dollars, an appeal may be taken to the Superior Court, at any time before a trial by jury.

The County Court has also jurisdiction in all criminal cases.

The Superior Court has unlimited and final jurisdiction in all cases where the matter in demand exceeds one hundred dollars.

Of the Process in Civil Actions.

This may be by summons or attachment. The writ and declaration (or statement of the cause of action,) issue together, and compose one instrument.

Of Imprisonment for Debt.

“No execution issued in an action founded on contract merely, shall be levied on the body of the debtor, except in actions founded on promises to marry, or misconduct, or neglect in any office or professional employment, or in actions instituted against a public officer, trustee, or any person acting in a fiduciary capacity to recover moneys collected or received by him.”

“Whenever any person shall be guilty of fraud in contracting a debt, or shall conceal, remove, withhold, assign, or convey away his estate, moneys, goods, chattels, or choses in action, with intent to prevent the same from being taken by legal process, or shall refuse to pay any debt admitted by him, or established by a valid judgment, while having moneys or estate not exempt from execution sufficient to discharge the same, concealed or withheld by him, so that the same cannot be taken by legal process, or shall refuse to disclose his rights of action, with intent to prevent the same from being taken by foreign attachment, any creditor aggrieved thereby, may institute *an action on the case* against such person, setting forth his debt in the declaration, and also setting forth particularly such fraudulent act or acts, and have process of attachment and execution against the body of the defendant, to be proceeded with in all respects as in other actions of tort.”

Of False Pretences.

“Every person who shall wilfully and designedly, by color of any false token, pretence or device whatever, obtain from any person, or corporation, any money, goods, chattels, or other valuable thing, with intent to cheat or defraud any such person or corporation, shall be punished by fine not exceeding five hundred dollars, or by imprisonment in a common jail not exceeding one year, or by such fine and imprisonment both.”

Of Attachments.

These may be granted against the goods and chattels of the defendant, and, for want thereof, against his lands, or

against his person, when not exempt from imprisonment on the execution in the suit. (See Imprisonment of Debtor.)

Foreign attachment is a process by which any personal property of a defendant, in the hands of a third person, called a *garnishee*, or an indebtedness of such third person to the defendant, may be attached by the plaintiff, by causing a copy of the process to be left by the proper officer, fourteen days prior to the session of the Court to which the process is returnable, with the garnishee.

The *lien* acquired by *attachment* continues, in the case of *personal* property, for *sixty days* after the rendition of final judgment in the cause; and in the case of *real* estate, for *four months* after the rendition of such judgment, unless such attachment shall be vacated, as hereafter mentioned.

Attachments may be vacated by the substitution of a sufficient bond, or by the operation of the insolvent laws. (See Insolvent Laws.)

Of Execution.

Executions may be levied on personal estate, and for want thereof, upon real estate, and when the same is not exempt, upon the body of the defendant.

Personal estate taken in execution is to be sold, after due notice, by the officer levying, to the highest bidder.

When *real estate* is levied on, *it is not sold*, but appraisers are appointed to estimate the value of the land, and a sufficient portion is thereupon set off by the officer to satisfy the debt; and the execution, with the levy and return, is then recorded in the office of the Town Clerk, which vests the title to the land set off in the execution creditor.

When *the body* is taken, the prisoner may apply for the benefit of the poor debtor's oath, which is to the effect that he does not possess property of any kind to the amount of seventeen dollars. The creditor must be summoned to show cause why the oath should not be administered, and may thereupon offer proof that the debtor has property more than the above amount, when the oath will be refused. If the debtor is admitted to the oath, the creditor must either suffer his discharge from, or provide for his support in prison.

Of Deceased Persons' Estates.

Executors and administrators have from one to two years to settle estates. Creditors are notified by advertisement to

bring in claims, and are barred unless they exhibit their claims within the time limited, which is usually six months. Non-residents, however, have two years from the time of notice wherein to exhibit their claims.

There is no priority in the payment of debts, except for funeral and last sickness expenses, and debts due the State.

If the estate be insolvent, commissioners are appointed by the Probate Court to receive and adjudicate claims, and a pro rata dividend is made.

Of the Insolvent Laws.

Assignments for the benefit of creditors must be *for* all the creditors, and *of* all the estate, both real and personal, except certain exempt property.

Such assignment vacates all attachments and conveyances, or securities to preferred creditors made within sixty days prior to the assignment; but the *costs* made on such attachments shall be paid in full.

If a creditor has a debt exceeding one hundred dollars, and issues process to collect the same, which is returned with the endorsement, "no property to be found whereon to levy," such creditor may file in the Probate Court an application for a trustee in insolvency of the debtor; and on such appointment, such trustee shall have all the powers, and discharge all the duties of a trustee by voluntary assignment, and such appointment shall operate from the time of the application therefor, as a voluntary assignment.

If the insolvent shall surrender all his estate, real and personal, at home and abroad, under oath, and such estate shall pay seventy per cent., the insolvent shall be entitled to a full discharge from all his debts.

Of the Statute of Limitations.

Negotiable notes, book accounts, and contracts not under seal, except promissory notes not negotiable, are "outlawed" in six years.

Bonds, contracts under seal, and promissory notes not negotiable, are "outlawed" in seventeen years.

Of the Rights of Married Women.

These are now substantially the same in respect to their estate, real and personal, as single women.

Of Interest and Usury.

The legal rate of interest is six per cent. per annum. The only penalty for a usurious contract, however, is the loss of the interest.

NEW YORK.

When a Debtor may be Arrested.

No person can be arrested for debt in the State of New York, except when fraud is alleged—and females are entirely exempt in all civil actions, except for a wilful injury to person, character or property. An action must first be commenced, and an order, founded on the affidavit of the plaintiff or of some person acquainted with the facts, must be obtained from a Judge of the Court in which the action is brought or a County Judge, authorizing the arrest of the defendant.

If the plaintiff is a non-resident, the Judge will require him to enter into an undertaking, in at least the sum of \$100, with sureties, conditioned to pay all costs and damage which may result to the defendant if the plaintiff fail to recover judgment against him. If the plaintiff is a resident, the undertaking may be executed by him, without sureties—but he must make oath that he is a resident and householder within the State, and worth double the sum specified in the undertaking over all his debts and liabilities.

The order of arrest may be served at the same time with the summons commencing the action, or may issue at any time afterwards, before judgment, and requires the Sheriff to arrest the defendant and hold him to bail.

The defendant may obtain his discharge by giving bail, or depositing the amount mentioned in the order of arrest with the Sheriff, to be by him paid into Court to abide the event of the action. And a defendant arrested may, at any time before the justification of bail, apply, on motion, to vacate the order of arrest, or to reduce the amount of bail.

Of Attachments.

The property of foreign corporations, and of non-resident or absconding, or concealed defendants, may be attached in an action for the recovery of money, by Article 227 of the

Code of Procedure, and this attachment is for the benefit of the individual creditor.

By the Revised Statutes a remedy by attachment is also given, which is for the benefit of all the creditors, and secures a general distribution of the debtor's property.

On an affidavit showing that the defendant comes under one of the above classes, and specifying the amount and grounds of the claim against him, a Judge of the Court in which the action is brought, or a County Judge, will issue a warrant of attachment, directing the Sheriff of the County in which there is property of the defendant, to attach and safely keep all the said property, or sufficient to satisfy the plaintiff's demand with costs and expenses.

All the property of the defendant, debts due him, his credits and effects, rights or shares of stock in an association or corporation, together with the interest and profits thereon, may be attached, and levied on and sold, to satisfy a judgment and execution.

A Judgment by Default may be obtained in from twenty-two to twenty-five days, and execution issued immediately. If it is returned unsatisfied, the defendant may, by an order of the Court, be compelled to appear and answer on oath touching his property.

Of the Stay of Execution.

Execution may be stayed, by order of the Court, for irregularity, or by injunction, but there are no "Stay Laws" in the State of New York.

Of the Exemption Laws.

1. Personal property.

The following articles, when owned by a householder, are exempt from execution. All spinning wheels, weaving looms and stoves, in use; the family Bible, pictures and school-books in use; fifty-dollars worth of other books as a family library; a pew in church; ten sheep and their fleeces, and the cloth or yarn made from the same; a cow and two swine, and their necessary food; all necessary pork, beef, fish, flour and vegetables, actually provided for family use; and fuel enough to last the family sixty days; all necessary wearing apparel, beds, bedsteads and bedding, for such householder and his family; arms and accoutrements re-

quired by law to be kept by such householder; necessary cooking utensils, one table, six chairs, six knives and forks, six plates, six teacups and saucers, one sugar-dish, one milk-pot, one tea-pot and six spoons, one crane and its appendages, one pair of andirons and a shovel and tongs; the tools and implements of a mechanic necessary to the carrying on of his trade, not exceeding twenty-five dollars in value. Besides these, necessary furniture, working tools and team, in value not exceeding one hundred and fifty dollars, owned by a householder, or by one having a family for whom he provides, but these last are not exempt from execution on a demand for the purchase money of articles exempt by law.

The question of the necessity of any article is a question for the jury.

A mortgagor's interest in personal property, not in his possession, is not subject to levy.

2. Real property.

An act was passed, April 10, 1850, exempting from sale on execution for debts contracted after that date, the lot and buildings occupied as a residence, and owned by a debtor being a householder and having a family, to the value of one thousand dollars. The exemption continues after the death of the householder, for the benefit of his widow and family occupying the homestead, until the youngest child becomes of age, and until the death of the widow. The conveyance by which such property is held, must show that it is designed to be held as a homestead, or a notice of such intention executed and acknowledged by the person owning the property, with a full description thereof, must be filed in the County Clerk's Office. The homestead is not exempt from sales for taxes or assessments, or for debt for part of the purchase money of the same or contracted prior to recording the deed or notice.

If, in the opinion of the Sheriff, the premises are worth over one thousand dollars, he may appraise them by six jurors. If, in their opinion, the same can be safely divided, one thousand dollars worth shall be set off, including the dwelling-house and the residue sold. If they are worth, by appraisement, more than one thousand dollars, and cannot be divided, the Sheriff shall deliver a copy of the appraisement to the debtor or other proper person of his family, with a notice requiring said debtor to pay the surplus value, above one thousand dollars, to the Sheriff, within sixty days, or that the premises will be sold. If sold, the Sheriff shall

pay one thousand dollars to the debtor, which shall be exempt from execution for one year, and apply the balance on the execution; but if no bid over one thousand dollars is made, the Sheriff shall not sell the premises, but return the execution unsatisfied for want of property.

A release or waiver of the exemption must be in writing and acknowledged.

Land, to the extent of one-fourth of an acre, used for a family or private burying-ground, with the vault or other place of deposit for the dead, is exempt, provided a description of said land has been made, certified, acknowledged, and recorded in the office of the County Clerk.

Statute of Limitations.

Seisin or possession, within twenty years, is necessary to maintain an action or defence, for the recovery of real property.

Adverse possession must be proved, not presumed, against a legal title. A paper title, or a title claimed under the judgment of a competent Court, joined with occupation, is to be deemed adverse possession as to the lots occupied. Actual, continued occupation, under claim of title, not founded on a written instrument or a judgment or decree, is good adverse possession as to the premises actually occupied.

Possession of a tenant is possession of his landlord, until twenty years after the expiration of the tenancy, or the last payment of rent. Infants, insane persons, prisoners undergoing sentence for crime, and married women, have ten years after the termination of their disability, in addition to the twenty allowed other persons, within which to commence an action for the recovery of real property, or to make an entry or defence to such action.

Judgments and decrees, and sealed instruments, run twenty years.

Actions on contract; on statute liabilities other than penalties and forfeitures; for trespass on real property; for taking, detaining or injuring goods or chattels, and the specific recovery of personal property; for crim. con. or other injury to person or rights, not founded on contract; for relief against fraud; and in pure equitable cases; must be brought within six years—but in the latter two kinds of action, the cause shall not be deemed to have accrued until the discovery of the fraud.

Actions against sheriffs, coroners and constables, except

for an escape, and for a penalty or forfeiture given by statute to a party aggrieved, or partly to such party and partly to the people, run for three years, except when the statute imposing them gives a different period.

Actions for libel, slander, assault, battery or false imprisonment, and actions for a forfeiture given by statute to the people, run for two years.

Actions against a sheriff, or other officer, for an escape, must be brought within one year.

An action for a forfeiture or penalty, given wholly or in part, to any one who will prosecute for the same, runs one year. If not commenced within a year, by a private party, it may be commenced within two years thereafter, in behalf of the people, by the Attorney General or District Attorney.

Other actions for relief, not above mentioned, must be brought within ten years.

Limitations apply to actions brought by, or for the people, the same as to private persons, and to non-residents as to residents, except that no part of the time during which a person is absent from the State, is to be deemed a part of the time limited for the commencement of an action against him. But non-residents may be compelled, in all cases, to file security for costs.

Infants, insane persons, criminals imprisoned, married women, must commence actions within one year after their disability ceases, if the time limited by statute has expired, and no disability except infancy extends the time more than five years. This provision, however, does not extend to actions for penalties or forfeitures, or against sheriffs and other officers for escapes.

If a person, entitled to bring an action, die before the limit expires, and the cause of action survive, his representatives may bring an action thereafter, within one year from his death.

If a person against whom a cause of action exists die, and such cause survive, an action may be commenced against his executors or administrators, after the limit has expired, and within one year from the date of letters testamentary or of administration.

Where a judgment is reversed on appeal, the plaintiff, his heirs or representatives, may commence a new action within one year from such reversal, if the action have been commenced within the time prescribed.

Time passed under an injunction or statutory prohibition

is not counted. The disability must exist when the right of action accrues.

There is no time limited for the commencement of actions to enforce the payment of bills, notes or other evidences of debt issued by moneyed corporations, or issued or put in circulation as money.

Directors or stock-holders of a moneyed corporation or banking association, may be sued for a penalty or forfeiture imposed, or to enforce a liability created by law, at any time within six years after the discovery of the facts.

Acknowledgment of a debt, or a promise to pay it, after the statute of limitations has attached, must be in writing.

Jurisdiction of Justices of the Peace, &c.

Justices of the Peace have jurisdiction where the sum claimed does not exceed one hundred dollars, in the following actions:

On contract for the recovery of money only;

For an injury to the person, or to real property, or for taking, detaining or injuring personal property;

For a penalty;

On a bond conditioned for the payment of a sum not exceeding one hundred dollars, though the penalty be more than that amount; judgment to be given for the sum actually due;

In cases of fraud in the sale, purchase or exchange of personal property;

Also, in an action on a surety bond taken by them, though the amount claimed exceed one hundred dollars;

In an action on a judgment rendered in a Court of a Justice of the Peace, or a Justice's or other inferior Court in a city; but no such action can be brought in the same county, within five years after the rendition of such judgment, except in case of the justice's death, resignation or incapacity to act, or removal from the county, or that process was not personally served on the defendant, or in case of the death of some of the parties, or where the docket or record of the judgment is lost or destroyed;

To enter judgment on confession for an amount not exceeding two hundred and fifty dollars;

Domestic corporations may sue and be sued in Justice's Courts, and foreign corporations may confer jurisdiction by appearance and answer;

But no justice of the peace has jurisdiction in cases where the title to real property shall come in question ;

Nor in a civil action for an assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation or seduction ;

Nor of a matter of account, where the two sides exceed the sum of four hundred dollars ;

Nor against an executor or administrator as such ;

Justice's judgments may be docketed in the County Clerk's office, but no such judgment for less than twenty-five dollars, exclusive of costs, shall be a lien on real property ;

The plaintiff must prove his case in Justice's Courts, whether the defendant appears or not ;

Execution may issue forthwith, and at any time within five years after judgment ;

Judgments in these Courts are a lien for six years.

Rights and Privileges of Married Women.

A married woman can take, hold, convey and devise, as if she were a single woman, real and personal property, and any interest or estate therein, free from the control of her husband, and not liable for his debts, unless the marriage and the debts were contracted before 1849.

Trustees holding property for the use of a married woman may, on her written request, accompanied by the certificate of a Justice of the Supreme Court, as to her capacity to manage the same, convey the same to her.

Contracts in contemplation of marriage are valid. Married women may insure the life of their husbands for their own free and separate use, free from all claims of the representatives of such husbands or their creditors, unless the premium annually paid exceeds three hundred dollars. In case of her death before her husband, the amount may be made payable to her children or their use.

A married woman may hold and enjoy any patent for her own invention, and transfer and dispose of the same for her own free and separate use.

Married women may deposit money in their own name, and draw it out on their own receipt from any savings bank, and may vote as a stockholder or member, for directors of any corporation, except mutual fire insurance companies.

Widows are endowed of one-third part of any estate of inheritance, of which their husbands have been seised during coverture, and are entitled to administer on their estates.

A married woman must sue and be sued with her husband, or a next friend, except for an absolute divorce.

Usury Laws.

The legal rate of interest in the State of New York is seven per cent. ; any sum paid in excess of that rate may be recovered back. All contracts for a greater per centage are void. Usury is a misdemeanor, punishable by fine not exceeding one thousand dollars, and imprisonment not exceeding six months. No valid contract can be made for a higher rate of interest than seven per cent.

Factors or Consignees.

There are no statutes in this State applicable to sales on commission for account of non-residents, in distinction from those applicable to residents.

NEW JERSEY.

When a Debtor may be Arrested.

Imprisonment for debt has been abolished in all cases of contract. In all actions founded upon a *tort* for a wrong or injury to the person or property, a *capias* may be issued, and the defendant held to bail; and in case of a suit or action founded upon a contract, the plaintiff may have a warrant to arrest the defendant, if he make oath that the defendant is about to remove any of his property out of the jurisdiction of the Court in which suit is brought, with intent to defraud his creditors;

Or, that he has property, or rights in action, which he fraudulently conceals from his creditors;

Or, that he has assigned, removed, or disposed of, or is about to assign, remove, or dispose of any of his property with the intent to defraud his creditors;

Or, that he fraudulently contracted the debt, or incurred the obligation respecting which suit is brought.

Any person held in custody in any civil action, or upon an attachment for not performing an award, or surrendered in discharge of bail, shall be discharged from arrest by the officer, if he make out and deliver a true and perfect inventory, under oath or affirmation, of all his property, and give bond to the plaintiff in double the amount claimed, that he will appear before the next Court holden in the county where the arrest is made, and petition for the benefit of the insolvent laws. In case of forfeiture of the bond, the plaintiff may bring an action thereon, and recover debt, damages, and costs. (Rev. Stat. 325.)

A female cannot be arrested and imprisoned for debt under any circumstances.

Of Obtaining Goods under False Pretences.

Every person who, with intent to cheat or defraud another, shall, designedly, by color of any false token, or writing, or

by any false pretence whatsoever, obtain from any person any money, personal property, or other valuable thing, upon conviction thereof, shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor not exceeding three years.

Of Attachment.

Attachments are either foreign or domestic. Foreign attachment lies against the property of non-resident debtors, and must be founded upon an affidavit of the fact of such non-residence. The proceedings upon foreign attachment in this State vary from those in many other States in this important particular, that when the attachment is once laid, it enures to the benefit of all the creditors, who may come in under it, and file their claims with the auditor. The attaching creditor gains nothing by his superior vigilance, as against the other creditors, but the trouble of the proceedings.

Domestic attachment lies against the property of a debtor who has absconded from the place of his usual abode, with intent to defraud his creditors, and is not a resident in the State. In order to procure the attachment, the creditor must make oath or affirmation to the facts necessary to sustain it. Under a writ of domestic attachment, the property of the defendant may be seized wherever found within the jurisdiction of the Court; and all conveyances of the property attached, made by the defendant pending the attachment, are void against the plaintiff, and the creditors who shall become parties to the attachment.

Of the Jurisdiction of Justices.

Justices of the Peace have jurisdiction in civil cases when the sum in controversy does not exceed one hundred dollars. But not in actions for libels, &c., or where the title to real estate comes in question.

An appeal lies from their judgment when the sum in controversy exceeds three dollars.

Of Judgment and Execution.

Judgments are a lien upon real estate for twenty years.^a Execution cannot be issued after the expiration of a year and a day from the date of the judgment, without revival;

but if the first execution is issued within the year and a day, alias and pluries executions may issue at any time thereafter within twenty years. A sale under an execution issued upon a junior judgment, discharges the lien of a prior judgment—the purchaser takes a clear title, and the proceeds of the sale are applied to the payment of the execution upon which the sale is had. It will thus be seen that it will not do to sleep upon a judgment in New Jersey, even when it binds real estate.

Personal property is bound only by execution, and from the time of levy.

There is no stay of execution.

Of Property Exempt from Execution.

Any person being the head of a family, is entitled to the following articles, exempt from execution upon any judgment founded upon a contract made prior to the fourteenth day of March, A. D. 1851, viz:—

One cow; one bed and bedding; one cradle; one stove; one-half cord of fire wood; one-half ton of stove coal; one spinning wheel; one table; six chairs; one hog; one hundred pounds of flour; one iron cooking pot; one dozen knives, forks, plates, and spoons; half dozen towels; two pails; one barrel; one coffee pot; one tub; one frying pan; the necessary tools of a tradesman to the value of ten dollars; and all necessary wearing apparel.

The following property is exempt from execution on any judgment founded upon contract made since the 14th day of March, A. D. 1851, (except for the non-payment of taxes, and the purchase money of the property,) viz:

Household goods and chattels; tradesman's tools to the value of two hundred dollars; and all wearing apparel, the property of a debtor having a family and residing within the State. This exemption also extends to the debtor's family after his death. They can claim the amount as against his creditors.

If the officer having charge of the execution cannot find sufficient property to satisfy the same, in addition to what the debtor claims under the exemption laws, three appraisers are appointed by a Judge of the Court of Common Pleas, whose duty it is to appraise the goods without reference to what they would bring at public sale, and if their value exceed two hundred dollars, the debtor may select such as he may see proper to this amount, and the balance is sold.

Of the Statute of Limitations.

All actions of trespass, replevin, trover, and detinue, for taking away goods and chattels; all actions of debt founded upon any lending, or upon any contract or specialty; or for arrearages of rent due on parol demise; actions of account, and upon the case, (except actions of slander, and such actions as concern the trade or merchandize between merchant and merchant, their factors and agents,) shall be commenced and sued within six years after the cause of action accrued, and not afterwards.

Every action of debt, or covenant for rent, or arrearages of rent due upon any lease under seal; every action of debt upon any single or penal bill for payment of money only; or upon any obligation with condition for the payment of money only; or upon any award under the hands and seals of the arbitrators for the payment of money only, must be commenced and sued within sixteen years from the time such cause of action accrued, and not afterwards. If any payment, however, has been made within sixteen years, the action may be commenced within sixteen years from the time of such payment.

All actions of debt, or of scire facias upon judgments, must be commenced within twenty years.

The statute does not run while a defendant resides out of the State.

Of the Rights of Married Women.

The widow of any decedent is endowed with an estate for life of one-third of the real property of which the husband was seized at any time during the marriage, and to which she has not relinquished her right in the manner prescribed by law. A wife may, in her own name, or in the name of a third person, as trustee, with the assent of the husband, cause the life of her said husband to be insured for her sole use and benefit. Such insurance may be for a term of years, or for the life of her husband. In case of her surviving her husband, the insurance shall be paid to her, free and discharged from the claims of her husband's representatives or creditors. This exemption does not apply, however, when the amount of the premium paid annually exceeds one hundred dollars. In case the wife should die before the husband, the amount of the insurance may be made payable to the children, if of age, or to their guardian, if under age

Of Decedents' Estates.

There is no period fixed by law wherein executors must settle their accounts. But they may be cited and compelled to do so after one year. Administrators are required by law to settle their accounts within one year from the date of the letters of administration. Both executors and administrators are allowed one year to collect in the assets, and cannot be compelled to distribute the same within that period

Of Assignments for Creditors.

All preferences in deeds of assignment for the benefit of creditors are void. The assignment enures to the benefit of all. Creditors who come in under the assignment and accept their dividend, are barred forever from any further remedy against the debtor, unless in cases where the debtor has rendered a fraudulent schedule of his assigned property.

Of Interest and Usury.

Six per cent. is the legal rate of interest. A contract for a higher rate is void, and the creditor loses both debt and interest.

PENNSYLVANIA.

When a Debtor may be Imprisoned.

The Act of Assembly of 12th July, 1842, has abolished imprisonment for debt in this State, in all suits or actions founded upon any *contract*, express or implied. In all actions, however, brought on promises to marry—for fines or penalties—for moneys collected by any public officer, or for any misconduct or neglect in office, or in any professional employment, the remedies remain as before the passage of the act; and in any of the last mentioned cases, as well as in all instances of *torts* or injury to the person or property of another, the party may be arrested upon a *capias* and held to bail in the first instance.

In all cases of contract, however, when by the provisions of the said act a party to a suit cannot be arrested or imprisoned, it shall be lawful for the party who shall have commenced a suit, or obtained a Judgment in any Court of Record, to apply to any Judge of the Court in which the suit shall have been brought, for a warrant to arrest the party against whom the suit shall have been commenced, or the Judgment shall have been obtained; whereupon the said Judge shall require of the said party satisfactory evidence, either by the affidavit of the party making such application, or some other person or persons, that there is a debt or demand due to the party making such application from the other party in the suit or Judgment, in which affidavit the nature and amount of the indebtedness shall be set forth as near as may be.

If the demand set forth in the affidavit be such that, under the provisions of the aforesaid act abolishing imprisonment for debt, the party could not be arrested, and if the affidavit shall establish, to the satisfaction of the Judge, *one* or more of the following particulars, to wit:

That the party is about to remove any of his property out of the jurisdiction of the Court in which such suit is brought, with intent to defraud his creditors;

Or, that he has property which he fraudulently conceals;

Or, that he has rights in action, or some interest in any public or corporate stock, money, or evidence of debt, which he unjustly refuses to apply to the payment of any Judgment or Judgments, which shall have been rendered against him, belonging to the complainant;

Or, that he has assigned, removed, or disposed of, or is about to dispose of, any of his property with the intent to defraud his creditors;

Or, that he fraudulently contracted the debt or incurred the obligation respecting which suit is brought;

It shall be the duty of the Judge to whom the application is made to issue a warrant of arrest—and if upon the hearing he is of opinion that the allegations are sustained, he may commit the party to prison until discharged by due course of law. The defendant is entitled to his discharge at any time upon payment of the debt and costs—or by giving security to do so in sixty days—or by giving bond to take the benefit of the insolvent laws.

The penalty under this act for secreting or removing property with a fraudulent intent, is a fine not exceeding the value of the property so secreted or conveyed, and imprisonment not exceeding one year.

Obtaining Goods under False Pretences.

The 21st section of the aforesaid act abolishing imprisonment for debt, provides, that—"Every person who, with intent to cheat or defraud another, shall designedly, by color of any false token, or writing, or by any false pretence whatsoever, obtain from any person any money, personal property, or other valuable thing, upon conviction thereof, shall be imprisoned in the Penitentiary, or in the County Jail, at the discretion of the Court before whom he shall be tried, not exceeding one year, or by fine not exceeding three times the value of the money or property, or other thing so obtained, or by both such fine and imprisonment."

Under this act it has been held that a false assertion of the possession of money, or other property to gain credit, by which goods were obtained, is sufficient to sustain an indictment.

Of Suits for the Recovery of Money.

In all cases where the demand exceeds one hundred dol-

lars, suit is brought in the Court of Common Pleas of the proper County, excepting in those Districts where District Courts are established, where they are brought in the latter. Under the compulsory Arbitration Act of 16th June, 1836, either party may enter a rule of reference, and the case can be arbitrated in about thirty days from the time of suit brought. The award of arbitrators can be appealed from by either party within twenty days—but it has, notwithstanding, the force and effect of a Judgment with respect to the party against whom it is made, and is a lien upon his Real Estate, until reversed upon appeal, or satisfied according to law.

In the District Court and Court of Common Pleas for the City and County of Philadelphia, Judgment may be obtained within thirty days, by default, if defendant cannot swear to a good and legal defence.

Judgments are a lien upon Real Estate for the period of five years, during which time they must be revived by *Scire Facias*, or the *lien* is lost, although the *debt* still remains. A Judgment binds all the interest of a defendant in Real Estate, whether legal or equitable.

Justices of the Peace and *Aldermen* have jurisdiction in their respective Counties, in all civil suits where the demand does not exceed one hundred dollars, except in cases of real contract where the title to lands or tenements may come in question, and in actions for breach of promise of marriage. A Judgment can be obtained before a Justice in five days from the time suit is brought; and either party may appeal to the Court of Common Pleas of the proper County, when the demand or sum in controversy exceeds five dollars and thirty-three cents, upon giving security to pay all costs that may accrue upon such appeal—*Provided*, said appeal be taken within twenty days from the time Judgment is rendered by the Justice. The Judgment of a Justice is not a lien upon Real Estate—his Court not being a Court of Record—but the Judgment may be made a lien by filing a Transcript in the Court of Common Pleas of the proper County.

Of the Stay of Execution.

In all actions instituted by writ for the recovery of money due by contract, or of damages arising from a breach of contract, except actions of debt and *Scire Facias* upon Judgments, and actions of *Scire Facias* upon mortgages, if the

defendant shall be possessed of an Estate in Fee Simple, within the respective County, worth, in the opinion of the Court, the amount of the Judgment recovered therein, or the sum for which the plaintiff may be entitled to have execution by virtue thereof, *clear of all incumbrances*, he shall be entitled to a stay of execution upon such Judgment, to be computed from the first day of the term to which the action was commenced as follows, to wit:

If the amount or sum aforesaid shall not exceed two hundred dollars, six months;

If such amount or sum shall exceed two hundred dollars, and be less than five hundred dollars, nine months;

If such amount or sum shall exceed five hundred dollars, twelve months.

In all cases where a defendant is not entitled to a stay of execution on account of his Real Estate, he may, upon entering security, in the nature of special bail, have a stay of execution during thirty days from the rendition of any Judgment recovered as aforesaid; and if, during that period, he shall give security, to be approved of by the Court, or by a Judge thereof, for the sum recovered, together with interest and costs, he shall be entitled to the like stay of execution, as in the case of a person owning Real Estate.

When Judgments are recovered before a *Justice of the Peace* or *Alderman*, if the defendant is a freeholder, and the Judgment is over five dollars and thirty-three cents, and not exceeding twenty dollars, there shall be a stay of execution for three months; and when the Judgment is above twenty dollars and not exceeding sixty dollars, there shall be a stay of six months; and when the Judgment is over sixty and not exceeding one hundred dollars, there shall be a stay of nine months.

When the defendant is not a freeholder, he may have the like stay of execution upon giving security in the nature of special bail, for the payment of the debt, interest and costs.

Of the Execution.

An execution may be issued upon a Judgment at any time within five years from the day it is rendered. After five years the defendant must be first warned by a *Scire Facias* before execution. The defendant's personal property must first be exhausted, before his real estate can be sold. Under an execution all the defendant's personal property may be levied upon: all stock owned by any defendant in any body

corporate—all deposits of money in any bank, or with any person or body corporate or politic, belonging to him, and debts due to him, are liable to execution like other goods or chattels, subject to all lawful claims thereupon, of such body corporate or person. Also, all goods or chattels of a defendant which shall have been pawned or pledged by him as security for any debt or liability—or, which have been demised, or in any manner delivered or bailed for a term, are liable to sale upon execution, subject to the rights and interests of the pawnee, bailee or lessee, to the possession or otherwise of such goods or chattels, by reason of any such pledge, demise or bailment.

In the case, however, of debts due to defendant, or of a deposit of money by him, or of goods or chattels pawned, pledged or demised as aforesaid, the same must be *attached* and levied in the same manner as in cases of foreign attachment—and a clause must be inserted in the execution in the nature of a scire facias against a garnishee in foreign attachment, requiring such debtor, depository, bailee, pawnee, or person holding by demise as aforesaid, to appear at the next term of the Court, or at such other time as the Court from which such process may issue shall appoint, and show cause why such Judgment shall not be levied on the effects of the defendants in his hands.

Under this proceeding, all legacies given, and lands devised to any debtor; or any interest which such debtor may have in the real or personal estate of any decedent, by will or otherwise, may be attached.

A life estate in lands and tenements may be levied upon, and also sold under an execution, unless some lien creditor procure the appointment of a sequestrator.

In cases where neither real nor personal estate can be found, the officer charged with the execution of the writ, may seize and take the amount to be levied by such writ of any current gold, silver, or copper coin, belonging to the defendant—or, he may take the amount aforesaid of any bank notes or current bills, for the payment of money issued by any monied corporation, at the par value of such notes. In no case, however, can such coin or bills be taken from the *person* of the defendant—nor can the officer take or retain money which may have been levied by him at the suit or instance of the defendant, upon any other execution.

Salaries and the wages of labour cannot be levied upon or attached.

Of Attachment.

Foreign attachment lies against the property of non-residents, and may be issued against the real and personal estate of any person not residing within the State, and not being within the county in which the writ issues, at the time of the issuing thereof. This proceeding is founded upon the custom of London—and is directed only against sufficient property to satisfy the plaintiff's claim; and may be dissolved at any time by the defendant, by appearing and giving security, either by bail, or a deposit of money, to answer the suit.

Under this proceeding, the plaintiff may attach money in his own hands, belonging to the defendant.

Before execution can be executed against the property of the garnishee, or person in whose hands or possession the property is attached, the plaintiff must give security by recognizance and sufficient sureties, to be approved of by the Court, with condition that if the defendant in the attachment shall, within a year and a day next ensuing the date of such recognizance, by himself or attorney, come into Court, and disprove or avoid the debt recovered against him, or shall discharge the same with costs, in such case the plaintiff shall restore to the defendant the goods or effects, or the value thereof, attached and condemned under the foreign attachment, or so much thereof as shall be disproved or discharged, or else that they will do it for him.

Legacies given and lands devised by will, may be attached under this proceeding.

Domestic attachment may be issued against the real or personal estate of a debtor, being an inhabitant of the State, when such debtor shall have absconded from the place of his usual abode, within the same, or shall have remained absent from the State, or shall have confined himself in his own house, or concealed himself elsewhere, with design, in either case, to defraud his creditors.

And the like proceedings may be had, where a debtor not having become an inhabitant of the State, shall confine or conceal himself within the county, with intent to avoid the service of process, and to defraud his creditors.

This writ requires an affidavit by the creditor, or by some one in his behalf, of the truth of his debt, and of the facts upon which the attachment shall be founded.

Upon the return of a writ of domestic attachment, the Court from which it issues, appoints three trustees, who are

clothed with power to collect the property of the defendant, and distribute it among the creditors entitled in the manner pointed out by law.

Justices of the Peace and Aldermen have jurisdiction in cases of domestic attachment, when the sum does not exceed *one hundred dollars*.

Of the Exemption Laws.

By the Act of Assembly of 9th April, 1849, it is provided that in lieu of the property heretofore exempt by law from levy and sale on execution, issued upon any Judgment obtained upon contract and distress for rent, property to the value of *three hundred dollars*, exclusive of all wearing apparel of the defendant and his family, and all bibles and school books in the use of the family, (which remain exempted as heretofore,) and no more, owned by or in possession of any debtor, shall be exempt from levy and sale on execution, or by distress for rent.

The act provides further that the officer charged with the execution of any warrant issued by competent authority, for the levying upon and selling the property, either real or personal, of any debtor, shall, if requested by the debtor, summon three disinterested persons, who shall be sworn or affirmed, to appraise the property which the said debtor may elect to retain under the act—and property thus chosen and appraised, to the value of three hundred dollars, shall be exempt from levy and sale under the said execution or warrant, unless it be a warrant for the collection of taxes.

In cases where the property levied upon is real estate, and is of greater value than three hundred dollars, and the debtor elects to retain real estate to the value of three hundred dollars or a less sum—the appraisers shall determine whether, in their opinion, the said real estate can be divided without injury to or spoiling the whole; and if the said appraisers shall determine that the said real estate can be so divided, then they shall proceed to set apart so much thereof as in their opinion shall be sufficient to answer the requirement of the defendant in such case, designating the same by proper metes and bounds—all of which proceedings shall be certified in writing by the said appraisers, or a majority of them, under their hands and seals to the sheriff or officer charged with the execution of the writ, who shall make return thereof to the proper Court.

If, however, the appraisers decide that the real estate can-

not be divided without prejudice to or spoiling the whole, then it shall all be sold, and the defendant is entitled to retain out of the proceeds as much as he would have been entitled to had the said real estate been divided.

This act, however, does not affect the lien of bonds, mortgages, or other contracts for the *purchase money* of real estate.

The right which a debtor has to exemption, under the foregoing act, is like any other right he possesses, and may be waived by him. No form is necessary. Any contract to pay money, containing a clause by the debtor waiving the benefit of the act, would be enforced by the Courts.

In construing this act the courts have decided that the object of it was to secure the insolvent debtor a *homestead*, or an amount of property at his pleasure, equivalent thereto; and that when he neglects to give the officer charged with the execution of the writ, notice of his claim or election to retain the property, either real or personal, in the manner pointed out by the act, he cannot, after the property is sold, claim three hundred dollars out of the proceeds in the sheriff's hands. The law designed to give him *property* not *money*, and he can only take the latter when real estate has been sold after a certificate by the appraiser that it cannot be divided without prejudice.

By the 25th section of the Act of 26th April, 1850, it is provided that the *widow* or *children* of any decedent dying within the commonwealth, if the said decedent shall have left a widow or children who were residing with him at the time of his death, and the estate be insufficient to pay his debts, exclusive of the amount of property which is now by law exempted from levy and sale upon an execution against a debtor, may retain either real or personal property belonging to said estate to the value of three hundred dollars; and the same shall not be sold, but suffered to remain for the use of said widow or family; and it is the duty of the executor or administrator to have the property appraised and set apart in the same manner as in the aforesaid proceedings in the case of an insolvent debtor.

Liens for the purchase money of any real estate are not affected or impaired by this act.

Proceedings against Decedents' Estates.

Executors and administrators are allowed *one year* to settle the estate of their testator or intestate—during which time

they cannot be compelled to distribute the assets in their hands. Creditors are notified to produce their claims by advertisements in one or more newspapers for six weeks consecutively. Real estate is treated as assets for the payment of debts, and may be sold for that purpose, if necessary.

The order of the payment of debts is as follows: 1st, funeral expenses, medicine furnished and medical attendance given during the *last illness* of the decedent, and servants' wages not exceeding one year; 2d, rents, not exceeding one year, and 3d, all other debts, without regard to the quality of the same, except debts due to the commonwealth, which shall be last paid.

Debts, which are a *lien upon the real estate* of any decedent, are to be paid according to their priority at the time of the decedent's death. Judgments in favor of the commonwealth are governed by the same rule.

Of Voluntary Assignments for the Benefit of Creditors.

The Act of 17th April, 1843, provides, that all assignments of property, in trust, which shall hereafter be made by debtors to trustees, on account of inability at the time of the assignments to pay their debts, to prefer one or more creditors, (except for the payment of wages of labour, not exceeding severally the sum of *fifty dollars*,) shall be held and construed to the benefit of all the creditors in proportion to their respective demands.

Under the above act, a *preference* in a deed of assignment would not render it void. The preference only would be invalid, and the assignment itself would stand for the benefit of all the creditors equally.

A debtor, however, desiring to prefer a creditor, can do so by giving or confessing a Judgment.

By the Act of 2d April, 1849, miners and workmen employed in mining coal, or in forges, furnaces, rolling mills, nail factories, machine shops, or factories, are made preferred creditors to the amount of fifty dollars severally, when their employer or employers, whether an individual, firm, or corporation, makes an assignment for the benefit of creditors.

Of the Rights of Married Women.

A married woman in this State is now treated as a single woman, so far as her ownership and control over property are concerned. The 6th section of the Act of 11th April,

1848, commonly called "The Married Woman's Act," provides, that every species and description of property, whether consisting of real, personal or mixed, which may be owned by or belong to any single woman, shall continue to be the property of such woman, as fully after her marriage as before; and all such property of whatever name or kind, which shall accrue to any married woman during her marriage by will, descent, deed of conveyance or otherwise, shall be owned, used and enjoyed by such married woman as her own separate property; and the said property, whether owned by her before marriage, or which shall accrue to her afterwards, shall not be subject to levy and execution for the debts or liabilities of her husband, nor shall such property be sold, conveyed, or mortgaged, transferred or in any manner encumbered by her husband, without her written consent first had and obtained, and duly acknowledged before one of the Judges of the Court of Common Pleas of the State, that such consent was not the result of coercion on the part of her said husband, but that the same was voluntarily given, and of her own free will—*Provided*, that her said husband shall not be liable for the debts of the wife contracted before marriage—and *Provided also*, that nothing in the said act shall be construed to protect the property of any such married woman from liability for debts contracted for herself, or in her name by any person authorized to do so; or from levy and execution on any Judgment that may be recovered against the husband for the torts of the wife, and in such cases execution must first issue against the property of the wife.

The same act provides, that a married woman may dispose of her estate, real or personal, by last will and testament, executed in the presence of two witnesses, neither of whom shall be her husband.

Where debts have been contracted for *necessaries* for the support and maintenance of the family by any married woman, the separate property of the wife may be proceeded against in the manner pointed out by the act.

A married woman may loan money to her husband, being a part of her separate estate, taking a bond or mortgage therefor in the name of a third person *as her trustee*, and such security taken bona fide is as good and valid in law against the husband's estate, as though the same had been invested by a trustee appointed by the Court.

Under this act it has been held that where, in a contest between the creditors of the husband and the wife, the latter

claims the property as her separate estate, she must prove her title by evidence which does not admit of a reasonable doubt—the presumption of law being always that where personal property is in the possession of husband and wife, it belongs to the former.

Of the Statute of Limitations.

All actions to recover money due upon any parol or simple contract, or instrument *not under seal*, must be brought within six years from the time the same was due and payable, otherwise they are barred by the statute of limitations. An unconditional promise to pay the debt or demand, however, made within six years prior to the bringing of suit, will take the case out of the operation of the statute.

In the case of specialties, or instruments under seal, a presumption of payment arises after the lapse of twenty years, which the party seeking to recover must rebut by showing payment of interest, or some other circumstances which go to establish the fact of non-payment.

Of Interest and Usury.

Six per cent. per annum is the legal interest in this State. A contract for a higher rate of interest is void only for the *excess*. If more than six per cent. is demanded and *paid*, however, the party receiving it, upon conviction thereof, shall forfeit the money and other things lent, one half to the commonwealth, and the other half to the party who shall sue for the same.

Canal and railroad companies may borrow money at a higher rate of interest, and such contracts are excepted from the operation of the usury laws.

Interest is a legal incident to every judgment.

Consignees or *Factors* have a lien upon goods shipped or consigned to them in the following cases:

1st. For any money advanced, or negotiable security given by them on the faith of such consignment, to or for the use of the person in whose name such merchandize was shipped or transmitted.

2d. For any money or negotiable security received for the use of such consignee by the person in whose name such merchandize was shipped or transmitted.

But such lien shall not exist if the consignee has notice

by bill of lading or otherwise, before advances made, that the person so shipping or consigning the goods is not the actual owner thereof.

Where a consignee or factor having possession of merchandize with authority to sell, or having possession of any bill of lading, permit, certificate, receipt, or order for the delivery of merchandize, with like authority, shall pledge or deposit said merchandize with any other person as security for money advanced or negotiable paper given on the faith thereof—such other person shall acquire the same interest in and authority over the said merchandize, as if said factor were the owner of the same: Provided, that such person shall not have had actual notice before the time of such advance or receipt that the holder of such merchandize or document is not the actual owner thereof. Where such notice exists, however, the person making the advances acquires no further right to the merchandize as against the consignor or principal, than are possessed by the factor at the time of making such deposit or pledge.

Whenever a consignee or factor shall dispose of any merchandize or document as aforementioned, or the proceeds thereof, to his own use, with the intent to defraud the owner of such merchandize or document, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, may be punished by a fine not exceeding two thousand dollars, and by imprisonment for a term not exceeding five years.

Persons engaged in transporting coal, iron, lumber, or other articles of merchandize, or any property whatever, on any railroad, river or canal in the State, and who shall sell, dispose of, or pledge the same, or any part thereof, without the consent of the owner or owners thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof may be fined and imprisoned; and any person so purchasing such property of the person transporting the same, knowing the same to be consigned, is made liable to pay the owner or owners, double the value of the same, with costs of suit.

The foregoing are, substantially, the provisions of the Act of 14th April, 1834, and of 17th April, 1846, in relation to factors, and nothing contained therein is to be construed to affect the lien which a consignee or factor may possess at law for the expenses and charges attending the shipment and care of merchandize consigned, or otherwise entrusted to him.

Nor, to prevent the actual owner of merchandize from recovering the same from such consignee or factor, before the

same shall have been deposited or pledged, or from the assignees or trustees of such consignee or factor in case of his insolvency.

Nor, to prevent such owner from recovering any merchandize so, as aforesaid, deposited or pledged, upon tender of the money, or of restoration of any negotiable instrument so advanced or given to such consignee or factor, and upon tender of such further sum of money, or of restoration of such other negotiable instrument, if any, as may have been advanced or given by such consignee or factor to such owner, or on tender of a sum of money equal to the amount of such instrument.

Nor, to prevent such owner from recovering, from the person accepting or taking such merchandize in deposit or pledge, any balance or sum of money remaining in his hands as the produce of the sale of such merchandize, after deducting thereout the amount of money or the negotiable instrument so advanced or given upon the security thereof as aforesaid.

DELAWARE.

Of Proceedings to Recover a Debt—and herein of When a Debtor may be Arrested.

There are two Terms of the Supreme Court in each county in each year. In a suit brought to the one term, the second is regularly the trial term—when judgment is obtained.

Process to compel the appearance of the defendant is either summons or *capias ad respondendum*.

A writ of summons is served either personally or by leaving a copy at defendant's place of abode.

If the defendant being summoned, do not appear at the return day, the plaintiff may file his declaration, and take judgment by default.

In all actions upon bills, notes, bonds, or other instruments of writing, for the payment of money, or for the recovery of book accounts, *scire facias* or debt on judgments, judgment by default may be entered on the last day of the term to which the original process is returnable, notwithstanding an appearance by the defendant; unless he shall have previously filed an affidavit that he believes he has a just defence in whole or in part. No such judgment shall be entered unless the plaintiff, within ten days after original process issued, and ten days before such process is returnable, shall have filed a copy of the instrument of writing, book entries or claim, with an affidavit stating the sum demanded, and that the plaintiff believes the same to be due.

A writ of *capias ad respondendum* is served by arresting the defendant, but he is discharged upon giving sufficient bail. On the return of the writ, the defendant is bound to put in special bail in order to discharge the bail to the Sheriff; but if this special bail be not given, the plaintiff may, at his election, cause a common appearance to be entered for the defendant, and move for judgment in like manner, as if special bail had been entered.

No non-resident can be arrested and held to bail for any debt contracted without the State.

Special bail have the right to take the principal, and render him in discharge, and commit him to jail, at any time before the end of the term at which the process fixing them is returnable.

Of the Jurisdiction of Justices of the Peace, and of Proceedings before them.

Justices have jurisdiction within their respective counties, of all causes of action arising from obligation or express or implied promise or contract for the payment of money, render of rent or delivery of produce, chattels, goods, wares and merchandize, or contract or agreement for personal hire, labor, or service, or for any penalty or forfeiture incurred under the provisions of any statute where the demand does not exceed one hundred dollars, exclusive of interest.

The proceeding is by summons or attachment.

The summons is returnable not more than fifteen days, and may be forthwith, if the Justice is satisfied there is danger of losing the demand.

The return day is the day for hearing, but it may be postponed from time to time, not exceeding fifteen days at a time.

If the summons be returnable forthwith, the Justice may refuse to grant an adjournment to the defendant without special bail.

If a defendant, duly summoned, do not appear, the Justice may adjourn the cause or give judgment by default.

In case of such judgment the defendant may, within fifteen days, apply to the Justice to take it off and let the parties into trial, and if upon hearing the Justice is satisfied that there ought to be a trial, he takes off the judgment.

If plaintiff do not appear, there is judgment or non-suit, which may be taken off in like manner.

If the sum demanded by plaintiff, or claimed by defendant, as a set-off, exceeds five dollars, either party may claim a trial by referees.

If the defendant have any demand or cause of action, cognizable before the Justice, he is bound to bring it forward or be forever barred from recovery.

If such demand or cause of action exceed one hundred dollars, he may bring it forward or not. If he bring it forward, and it be found that the plaintiff is indebted to him in any sum not exceeding one hundred dollars, judgment shall be entered for that sum. If such sum exceed that amount, the defendant may remit the excess, or judgment may be

entered for him for costs, and he may prosecute his cause of action in the Superior Court.

In case of any judgment given by a Justice, and on application within fifteen days, a new trial is granted :

To the defendant—if on a trial before referees, the report against him is between five and fifteen dollars, exclusive of costs.

To the plaintiff—if his demand before referees was between five and fifteen dollars, and the report is for five dollars or less, or against him.

Bail may be required of either party.

Justices may enter judgment on notes with warrant, authorizing such entry without process, for any sum not exceeding one hundred dollars, exclusive of interest.

The note is filed with the Justice.

If the defendant in the judgment, or his personal representatives, shall by affidavit deny the obligation, or set forth any just defence, a trial is granted. The judgment is not vacated, nor is any execution or levy set aside, but remains as a security, unless other security is given to pay the plaintiff the sum justly due.

On every judgment over five dollars, besides costs, against a freeholder, upon application of defendant within five days, there is a *stay of execution* for six months, unless the judgment creditor or some one for him files an affidavit that he believes the debt will be lost.

On any judgment against one other than a freeholder, or against a freeholder, in relation to whom affidavit has been made, if the defendant, within two days from the giving of the judgment or filing the affidavit, gives security of record to pay the judgment, there is a stay of nine months.

Execution is issued, returnable not more than six, nor less than three months. A clause of attachment is added, if requested.

No process of execution, for taking the body of a white person, shall issue without affidavit of indebtedness over five dollars, and of fraud in disposing of personal estate, over twenty-five dollars, specifying the fraudulent transactions.

The execution does not bind the goods until actual levy and appraisement, nor does it continue as against subsequent execution creditors longer than two years. When the principal amount of an execution is over fifteen dollars, it may be directed to the Sheriff.

If any constable to whom execution is delivered, shall not at or before the return day produce the receipt of the person

entitled, for the amount levied, or make an insufficient return, or a false return, summary proceedings may be taken within ten days, to cause execution to be issued against him for the amount.

If the Sheriff or Constable levies or receives any money, and does not pay it over on demand, he pays at the rate of twenty per cent. per annum from the time of such demand.

If to an execution exceeding five dollars, principal sum, there be a return of no goods, the creditor may file a transcript in the Superior Court, when it becomes a lien on the lands of the debtor.

Appeals are allowed from judgments of Justices,

First. From judgments given *without referee trial* to an amount exceeding five dollars, exclusive of costs. Or in case any part of plaintiff's demand, or of the defendant's counter claim, exceeding five dollars, is disallowed, such party may appeal.

Second. From judgments given *upon the report of referees*, to an amount exceeding fifteen dollars, exclusive of costs, or in case any part of plaintiff's demand or defendant's counter claim, exceeding fifteen dollars, is disallowed, such party may appeal.

The appellant must take his appeal within fifteen days; he must give security of record before the Justice to prosecute his appeal with effect, and must enter his appeal in the Superior Court, on or before the first day of the next term. Upon the entry, the Court takes cognizance of the cause, and the pleadings and trial are as though the suit had been originally instituted in the Court, except that the trial may be had the first term, and either party may have verdict and judgment.

The proceedings before Justices *by attachment*, instead of summons, is on affidavit that the defendant is indebted in any sum not exceeding one hundred dollars, and has absconded, or about to abscond, or conceals himself, or is a non-resident.

Goods taken on the attachment must be appraised, and if perishable, may be sold on the order of the Justice. When goods are attached, or garnishees summoned, public notice must be given, stating the parties, the sum demanded, time and cause of issuing the attachment, and the return. Any other creditor may defend in defendant's name; may open the judgment or appeal.

Garnishees refusing to appear may be attached. They must answer or plead at the option of plaintiff.

There is a stay of execution on judgments against garnishees, as in other cases, and if it appear that there is a sum payable at a future day, there is a stay until that day without security.

There can be no judgment against garnishee, until there is judgment against the original debtor. If there be more due from the garnishee than is embraced in the judgment, he is liable to other attachments for the balance.

The original debtor may dissolve the attachment at any time before final judgment, by giving security to satisfy any judgment that may be obtained against him.

Of the Execution.

Upon a judgment obtained, in order to collect the money, a writ of fieri facias issues, by force of which the officer levies on the goods and chattels, and for want of such sufficient, on the lands and tenements of the defendant. A clause of attachment may also accompany the writ commanding the officer to summon the debtors of the defendant as garnishees, to be proceeded against as in cases of foreign attachment.

In the case of goods and chattels, the execution binds, from the delivery to the officer, all the goods and chattels within the bailiwick which shall be actually levied on within sixty days thereafter; but no levy made is of any force as against a subsequent execution, levied on the same goods and chattels for a longer period than two years, nor unless the execution is continued by writs of venditioni exponas, issued from term to term of the Court.

In the case of lands seized and taken in execution upon a fieri facias, the officer must inquire, on oath, whether the yearly rents and profits, beyond all reprises, will satisfy the execution in seven years. If they will, they cannot be sold, but a writ of elegit may issue to deliver the lands to the plaintiff, until the debt, damages and costs are paid.

No capias ad satisfaciendum can be issued upon any judgment in a civil suit against a citizen, until by a return on a writ of fieri facias, it appears that he has no property within the county sufficient to satisfy the debt or damages; or until the plaintiff or some credible person for him, shall make written affidavit that he verily believes the defendant has not such property; nor until the plaintiff or some credible person for him, shall in addition make written affidavit that the defendant is indebted in a sum exceeding fifty dollars, and that he verily believes he has secreted, conveyed away,

assigned, settled or disposed of real or personal estate, of the value of more than fifty dollars, fraudulently, and specifying the fraudulent transactions.

No writ of *capias ad satisfaciendum* can, in any case, be issued upon a judgment at the suit of a person not at the time such judgment was recovered residing within the State, without such oath or affirmation first made and filed.

Of the Stay of Execution.

Executions may be stayed six months upon any judgment recovered upon giving security for the debt, interest and costs.

The practice obtains generally for the plaintiff, in consideration that the defendant confesses a judgment at the second term, to grant a stay of execution for three months. This, however, is optional with the plaintiff.

Of Attachments.

Attachments are domestic and foreign. A *domestic attachment* issues against an inhabitant after summons or *capias* issued, and delivered to the officer ten days before the return, showing that the defendant cannot be found, and proof satisfactory to the Court of the cause of action, or upon affidavit made by the plaintiff or some credible person, for him, and filed with the Prothonotary, that the defendant is justly indebted to the plaintiff in a sum exceeding fifty dollars, and has absconded from the place of his usual abode, or gone out of the State with intent to defraud his creditors or elude process.

By this writ the officer is required to attach the defendant by all his goods, rights and credits, lands and tenements, to appear at the next Superior Court, and summon the garnishees.

If the defendant puts in special bail, the attachment is dissolved.

If any property so attached is perishable, or will create charge, the Court or any Judge thereof, may direct it to be sold.

If any garnishee, being summoned, do not appear, he may be compelled by attachment within two terms. The garnishee may answer on oath, or be compelled to plead, at the option of the attaching creditor.

If it be found that the garnishee had, at the time he was notified of the attachment, or afterwards, money or effects

of the debtor in his hands, judgment is rendered against him for the amount, and this judgment is pleadable by him, in bar, against the debtor.

If the plaintiff, in the attachment, or any creditor of the defendant will make affidavit, that any garnishee summoned is not an inhabitant of the county, or is about to leave the county, and has property of the defendant in his hands, or owes him money, whether due or not, a *capias* may issue against him.

On the return of a writ of domestic attachment, auditors are appointed to audit the claims of the defendant's creditors, the attaching creditor being entitled to a double share. They make report to the next term of the Court after apportionment, and upon confirmation must pay over the proceeds.

No creditor can receive any dividend without entering into recognizance to secure the re-payment of the whole or any part thereof, which the debtor shall within one year appear in Court and disprove.

Judgment is given for the plaintiff at the second term after issuing the writ, unless the defendant enters special bail, and upon such judgment the Court orders the property to be sold, and the proceeds paid to the auditors for distribution.

A writ of *foreign attachment* issues against a person not an inhabitant, after a return to a summons or *capias*, as above, or on affidavit made by the plaintiff or some credible person for him, and filed with the Prothonotary, that the defendant resides out of the State, and is justly indebted to the plaintiff in a sum exceeding fifty dollars.

The like proceedings are had as in cases of domestic attachment, except the appointment of auditors and distribution—the attaching creditor having the sole benefit of his discovery. After judgment, he may have an order of sale, or execution as on other judgments.

Of the Exemption Laws.

So far as relates to execution process issued within Kent and Sussex counties, there is no exemption. In New Castle county, the exemption extends to one hundred dollars. This exemption does not extend to any contract entered into prior to July 4, 1851.

The articles exempt, and their value, are ascertained by two citizens of the county of which the debtor is an inhabitant, appointed and sworn by any Justice, Constable or Sheriff.

Of the Statute of Limitations.

The limitation in real actions is twenty years.

In trespass, replevin, detinue, debt not founded on record or specialty, account, assumpsit and case, three years from the accruing of the cause of action.

In the case of mutual and running accounts between the parties, the act does not begin to run while the account continues open and current.

When the cause of action arises from a promissory note, bill of exchange or acknowledgment under hand, the action may be commenced within six years from the accruing thereof.

In case of a person entitled to sue, if such person be under disability of infancy, coverture, or incompetency of mind, the statute does not bar during such disability, nor until three years after the removal thereof.

In case a cause of action accrues against a person, and at the time he is out of the State, the action may be commenced within the time limited, after he shall have come in, so as to be reasonably served with process; and if a person against whom a cause of action has arisen, depart from and reside out of the State, such time of absence shall not be counted.

Of the Rights of Married Women.

The rights of married women are generally as at common law.

In case of the death of the husband intestate, and leaving issue, the widow is entitled to the one-third the real estate, during life, and one-third of the personal estate absolutely; if he die without leaving issue, she is entitled to one-half.

Of Interest and Usury.

The legal rate of interest is six per cent. per annum, and if any person, directly or indirectly, take more than that rate, he forfeits a sum equal to the money lent—one-half for the use of the person suing, the other half for the use of the State.

Upon foreign contracts the rate of interest would be computed and allowed, according to the law of the place where the contract was made.

MARYLAND.

[In order to keep pace with the progress of other States and communities, and to gratify the apparent general desire to see the law and its administration partake of the improvements which have characterized most of the various branches of science and art, the Legislature of Maryland have appointed committees, composed of competent gentlemen of the bar, to codify the laws of the State; also to simplify the modes of conveyancing; also to simplify the forms of pleading, with a view to the entire abolishment of the system of special pleading, if that shall be found practicable.

The labor involved in the execution of these several tasks is arduous, and the results have not yet been made public or adopted by the Legislature.

Important changes may, however, be expected in the matters submitted to the examination and judgment of these committees, but the extent of these changes cannot now be anticipated with any certainty. It is sufficient to know that the character and abilities of the gentlemen entrusted with these duties are a guarantee that their labors will result in real and substantial benefits to the State, and to all concerned in her system of laws, and their administration.]

Of Imprisonment for Debt—Extent of Debtor's Liability.

By Article 3, Section 44, of the new Constitution, adopted in 1851, it is declared, that "No person shall be imprisoned for debt." This provision being incorporated into the Constitution itself, no legislation can, in the slightest degree, limit its operation; which is entirely to prevent imprisonment in Maryland, except for contempts of Court, or upon criminal charges.

In no case whatsoever, and at no stage of the proceedings, where the matter charged against a party assumes the character of a debt, or pecuniary claim, can the person of the defendant be subjected to arrest and imprisonment.

It matters not whether the process issued be for the reco-

very of a claim upon contract, or for damages for a tort, it in no case extends to the imprisonment of the person. The property of the debtor, and that alone, is subject to seizure for his liabilities.

Of False Pretences.

If goods, or chattels, or money, be obtained upon false pretences, or by false and fraudulent representations, the party so offending is liable to a criminal prosecution, and if found guilty, to fine and imprisonment, or confinement in the penitentiary, according to the nature of the case. But if remedy be sought only by civil action, he will be exempt from arrest and imprisonment.

Of Suits to Recover Claims in the Counties.

If the claim or demand be under fifty dollars, suit must be brought before a Justice of the Peace of the county where the debtor resides.

If the claim be between fifty dollars and one hundred dollars, suit may be brought either before a Justice, or in the Circuit Court for the county, they having concurrent jurisdiction; except in actions involving the title to land, actions of slander, for breach of promise to marry, and to enforce the lien allowed by law for work and materials done and furnished, in which the jurisdiction is confined exclusively to the Circuit Courts for the counties, no matter what may be the amount claimed.

If the claim or demand exceed the sum of one hundred dollars, the action must be brought in the Circuit Court for the county where the debtor resides.

In suits before a Justice of the Peace, the writ or summons is returnable in not exceeding forty days, and at the expiration of that time, (or sooner with the consent of both parties,) the case stands for hearing and judgment. Either party is entitled to further time in the discretion of the Justice, not exceeding fourteen days, on showing legal cause.

The Circuit Courts for the counties are tribunals established under the Judiciary System embodied in the new Constitution. They hold two terms annually in each county, for civil and criminal business, and four for equity business. Suits in these tribunals stand for trial at the third term from the time of their institution. In all cases, however, upon undisputed claims, the practice is to render judgment at the second term.

In the City of Baltimore.

The law, so far as it relates to the jurisdiction of Justices of the Peace, and the practice in suits before them, is nearly similar to that of the counties, with the exception that Justices in the City of Baltimore possess exclusive jurisdiction up to one hundred dollars, in all the cases coming within that jurisdiction.

If the debt or damage claimed exceed the sum of one hundred dollars, and does not exceed the sum of five hundred dollars, suit must be brought in *the Court of Common Pleas of Baltimore city*. And if the debt or damage claimed exceeds the sum of five hundred dollars, the jurisdiction is in the *Superior Court* of Baltimore city.

In both these Courts, it is the practice in actions upon promissory notes or other claims, where there is no real defence to be made, to obtain judgment at the commencement of the second term after suit is instituted. Each of these Courts hold three terms annually—in January, May and September.

It is well to remember that besides these State tribunals, the Circuit Court of the United States for the district of Maryland, sitting in the city of Baltimore, has also jurisdiction in cases where the suit is between a citizen of Maryland and a citizen of another State, and the matter in dispute exceeds the sum of five hundred dollars. This jurisdiction extends over the whole State. A non-resident plaintiff, having a claim against a citizen of Maryland, exceeding in amount the sum of five hundred dollars, can bring his action in this Court, located and holding its terms in the city of Baltimore, and its process will reach the defendant in the most distant county; and the judgment, when obtained, is a lien on the real estate of the defendant, wherever situated within the limits of the State.

Of Attachment.

The proceeding by attachment is of great antiquity in Maryland, and has given rise to many of the most interesting as well as difficult questions submitted to the decision of the Courts. It has been the subject of much legislation from time to time, with a view to increasing its efficiency, and has been, and yet is, extensively used as a remedy for enforcing the payment of claims.

Formerly the proceeding by attachment was confined exclusively to the Courts, but by recent legislation power has been conferred upon Justices of the Peace to issue attachments in all cases falling within their jurisdiction, and which are suitable in their facts and circumstances, for this mode of proceeding.

As an original process, attachment may be designated as either *foreign* or *domestic*. It lies against the lands and tenements, goods, chattels and credits of a non-resident debtor, and when so used may be termed *foreign*; and also against the same property of an absconding debtor, and when so used may be termed the *domestic* attachment. It is obtained by the creditor making the necessary affidavit, and producing the proper proof or voucher of his claim, before a Justice of the Peace. If the amount be such as to give jurisdiction to the Justice, he issues the attachment. If the amount brings the case within the jurisdiction of the Circuit Court for the county, or the Superior Court or Court of Common Pleas, of Baltimore city, as the case may be, the Justice directs a warrant or authority to the Clerk of the proper Court, who thereupon issues the attachment. Whether the case be entirely within the jurisdiction of a Justice, or be properly cognizable by the Court, the proceeding, being a special one, requires great care in its inception and management, and cannot safely be undertaken except under the advice and with the services of an attorney.

No attachment can be dissolved unless every defendant appears to the action, and also unless a bond be given by or on behalf of the defendant, in a penalty equal to the value of the property attached, with security to be approved by the Court, or a Judge thereof if in recess, to satisfy any judgment that shall be recovered in the cause against the defendant.

In attachment, the judgment for plaintiff is that of condemnation against the property, if laid upon property, or against the garnishee, if laid in his hands upon money due to the defendant from him; and in either case execution may be issued upon such judgment of condemnation, as upon any other judgment rendered by the Court, except that before execution can issue upon the judgment of condemnation, the plaintiff is required to give bond, with security, conditioned for the restitution of the goods and chattels, or the value thereof, in case the defendant within a year and a day from the date of the judgment, shall appear and estab-

lish a good defence. The usual practice is, to wait until the expiration of a year and a day before issuing the execution.

Attachment may also be issued upon judgment, (whether it be the judgment of a Justice of the Peace or the judgment of a Court,) in the nature of an execution, and, when so issued, is laid upon the property or credits of the defendant. It may, by the laws of Maryland, be issued instead of any other form of execution. The manner of proceeding for obtaining condemnation, is in a great degree similar to that observed in the other form of attachment.

Of the Execution, Stay, &c.

Execution on judgments of Justices of the Peace, may be stayed by injunction, by appeal to the Circuit Court, (if in the counties,) or to the Court of Common Pleas, if in the city of Baltimore, and also by supersedeas, i. e. giving security for the money, for six months, if the amount be under \$26,66 $\frac{2}{3}$, and for twelve months, if the amount exceed that sum.

Judgments in the Circuit Courts for the counties, and in the Superior Court and Court of Common Pleas of Baltimore city, may be stayed by injunction, by appeal to the Court of Appeals, and also by supersedeas, for six months in the Circuit Court for the counties, and in the Courts of the city of Baltimore, one half of the amount for six, and the remainder for twelve months.

Besides the above modes of staying execution, there is a general stay prescribed by acts of Assembly, on all judgments obtained at the second term after the institution of the action. If in the counties, the stay extends to the first Thursday of the next term. In the city of Baltimore it extends to thirty days after the judgment.

Execution when issued, may be levied on any property, real, personal, or mixed, belonging to the defendant, (with some slight exceptions,) which can be found within the jurisdiction of the Court. It may also be issued from the Circuit Court of a county, or from either of the Courts of the city of Baltimore, directed to the Sheriff of any other county, or of the city of Baltimore, to be served by him, and returned to the proper Court in the city or the said county.

Debts due to the defendant may be reached by attachment on the judgment, in the nature of an execution, which has been already explained.

Of Property Exempt from Execution.

The new Constitution directs, that "the Legislature shall pass laws protecting from execution a reasonable amount of the property of a debtor, not exceeding in value the sum of five hundred dollars." No such laws, however, have yet been passed by the Legislature. The Act of Assembly of 1715, Chap. 40, Sec. 5, which is still in force, provides, "that no Sheriff in the State of Maryland, by any attachment or any other execution had upon such attachment, or any other execution whatsoever, shall levy, seize, or take the goods and chattels of any inhabitant of this province, (now State,) so far as to deprive him of all livelihood for the future; but that corn for necessary maintenance, bedding, gun, axe, pot, and laborers' necessary tools, and such like household implements and ammunition for subsistence, shall be protected from all attachments and executions whatsoever."

By a recent act of Assembly, the husband's life estate in the real property of the wife, is not liable to execution for his debts, during the life of the wife.

Salaries and wages are liable to attachment on judgment, only to the extent of the excess over ten dollars, due at the time of laying of the attachment.

Merely equitable interests in personal property cannot be sold under execution.

The subject of a general exemption law, similar to such as are found in some other States, and as contemplated by the new Constitution, has been, and will undoubtedly continue to be, pressed upon the attention of the Legislature at every session until it is passed.

Of Insolvency and Assignments.

Under the operation of the new Constitution, the applications for the benefit of the Insolvent Laws are less frequent, debtors not being forced to that expedient, in any case, in order to retain their personal liberty.

The Insolvent system, however, is in force, and has been remodelled with a view to making it suit the new order of things, by the Act of Assembly of 1854, Ch. 193.

By making application at a proper time, to the proper tribunal, and complying with the forms prescribed, a debtor may be discharged from liability for existing debts. The

discharge does not, however, extend to release any property which the applicant may acquire after his application, by gift, descent, devise, or in the way of distribution; but the same goes into the hands of the trustees, to be distributed among the creditors.

Confessions of judgments, or assignments, which have been made by the applicant for the purpose of defrauding creditors, or giving an undue preference, are void; and the property or thing conveyed, vests in the trustee.

By Sec. 13, of the above mentioned act, it is provided, "that no deed or conveyance to a trustee, for the benefit of creditors generally, shall be deemed fraudulent, or a fraudulent or undue preference, because of a condition requiring the creditors to release the debtor, and depriving any creditor who refuses to release of all benefit from property so conveyed in trust; but all such deeds of trust are hereby declared to be valid, and shall not be set aside either at the suit of a trustee under this act, or at the suit of any creditor."

This was only embodying in the act of Assembly, what had been previously announced by the Court of Appeals, to be the law of the State, on that subject.

Many interesting and important questions have arisen under the insolvent laws, and been adjudicated by the Court of Appeals. One of the most important, in view of the doctrine established in regard to the rights of foreign creditors, is, that a non-resident plaintiff can prosecute his claim to judgment in the Courts of the State, and, notwithstanding the defendant's discharge under the insolvent laws, can lay his execution on any property or funds of the defendant, remaining undistributed in the hand of the trustee.

This doctrine is sustained by the Supreme Court of the United States, which has declared that State insolvent laws are bounded in their operation, by the limits of the State, and cannot, as a general rule, extend to affect the rights of citizens of other States.

Of Estates of Decedents.

All claims against the estates of deceased persons, must be regularly proved or authenticated in conformity with the requirements of the testamentary law, and be presented to, and approved, or passed by the Orphans' Court of the county or city where the estate is being administered, before the executor or administrator is authorized to pay them.

Notice to creditors is always given, or required by law to be given, immediately on the grant of letters testamentary or of administration, apprising them of the time within which their claims must be presented.

Executors and administrators are allowed twelve months before they can be called upon for payment of claims, or a distribution of the assets of an estate.

The personal estate of the deceased is the natural and primary fund for payment of his debts—and must, in ordinary cases, be first resorted to by creditors. The administrator as such has no control over the real estate, nor has an executor, unless it be given by the terms of the will.

If the personal assets be insufficient for the payment of debts, upon the application of a creditor, and proof of that fact, or the admission of the heirs, a Court of Equity will decree the sale of the real estate, or so much thereof as may be necessary to supply the deficiency.

In the settlement of the estate of a deceased person, after payment of funeral expenses and the costs of administration, all judgments and decrees against the deceased must be wholly discharged before any part of other claims. If there be not sufficient to satisfy all judgments and decrees, a proportionable division or dividend must be made between the judgment and decree creditors. There is an exception, however, in favor of the State of Maryland. When the State and an individual, or individuals, each have judgments against a deceased person, in the payment of debts by the executor or administrator, the State has the preference, and its debt must be first paid.

After all judgments and decrees are satisfied, all other just claims are admitted to a distribution on an equal footing, without priority or preference.

Of the Statute of Limitations.

Actions upon open accounts, promissory notes, and all cases of simple contract must be instituted within three years from the time when the money claimed was due and payable.

Actions upon specialties, or instruments under seal, must be instituted within twelve years from the time when the money claimed was due and payable.

An unconditional admission of the debt, or a promise to pay, made within three years, will remove the bar of the statute in the former case. In the case of a bond or instru-

ment under seal, barred by limitations, an admission, or promise to pay, does not revive the remedy on the bond itself, but enables the party to maintain assumpsit on the new promise, and to give the bond in evidence, as the consideration for the new promise.

If the debtor should be absent from the State at the time the cause of action accrues, the statute will be no bar, provided action be brought within the time limited, after his presence in the State.

Of Interest and Usury.

By Art. 3, Sec. 49, of the new Constitution, it is provided, "That the rate of interest in this State shall not exceed six per cent. per annum, and no higher rate shall be taken or demanded, and the Legislature shall provide by law, all necessary forfeitures and penalties against usury."

Up to this time, there has been no legislation on this subject. Prior to the adoption of the new Constitution, the legal rate of interest was the same as prescribed by that instrument; and the law of Maryland, in regard to usury, simply imposed a forfeiture of the excess, and allowed a recovery of the claim with legal interest thereon. The fair and reasonable conclusion would seem to be, that such is, and must remain, the law on the subject, until the Act of Assembly, containing this provision, shall be changed and superseded by further legislation, as contemplated by the Constitution. The question, however, has not been passed upon by the Court of Appeals.

Of the Rights of Married Women.

Before the adoption of the new Constitution in Maryland, there had been some legislation with a view to the protection, to some extent, of the property or means acquired both before and after marriage, by femmes covert, from its almost unlimited liability, by the common law, to seizure for the debts of the husband. The provisions made by this legislation were, however, very limited, and have been practically covered and absorbed by the Act of Assembly of 1853, Ch. 245, passed in compliance with a clause of the new Constitution, directing the Legislature to pass suitable laws on this subject.

That Act provides as follows, viz.:

SEC. 1. "That the property, real and personal, belonging

“to a woman at the time of her marriage, and all property which she may acquire or receive after her marriage, by purchase, gift, grant, devise, bequest, or in a course of distribution, shall be protected from the debts of the husband, and not in any way be liable for the payment thereof. Provided, that no acquisition of property passing to the wife from her husband, after coverture, shall be valid if the same has been made or granted to her in prejudice of the rights of his subsisting creditors.”

SEC. 2. “That in order to effect the object of the foregoing section, the wife shall have the benefit of all such remedies for her relief and security as now exist, or may be devised, in the Courts of Law or Equity of this State.”

SEC. 3. “That it shall not hereafter be necessary to interpose a trustee, in order to secure to a married woman the sole and separate use of her property.”

SEC. 4. “That all contracts made between persons in contemplation of marriage, shall remain in full force after such marriage shall take place.”

Of Factors or Consignees.

The general extent of the lien of factors or consignees in this State, is that which is given by the common law, or that branch thereof which governs and regulates the rights of agents in connection with the property of their principals in their hands. It is not regulated by any special legislation, establishing rights or remedies peculiar to the State of Maryland.

The Act of Assembly of 1849, Ch. 293, which is the only act now in force on the subject of factors, relates entirely to the consignment of agricultural productions, and limits the power of the factor to the bona fide sale or disposal of such consignment, according to the design of the consignment, and makes any other use or disposal of them void. It also forbids such consignment from going into the hands of the trustee in case of the insolvency of such factor or agent.

Sec. 3, of the above act, expressly declares, that the right of lien of any factor, &c., for advances bona fide made on the faith and security of such consignments, shall remain the same as it before existed, by the course of the Common Law, and the Courts of Equity.

DISTRICT OF COLUMBIA.

[The Collection Laws of the District of Columbia are of such general interest, as to warrant, in our opinion, a somewhat lengthy abstract, and the insertion of some matters under heads not contained in the States. Washington being a common centre of the Union, to which persons from all sections resort, claims against distant debtors are frequently sued out against them there.]

General Observations on the Judicial Organization of the District.

The laws of Maryland, which were of force on the 27th of February, 1801, with the few exceptions in which they have been repealed, altered, or modified by acts of Congress, prevail in the District of Columbia, together with such laws as have been enacted by Congress before and since that time.

The laws regulating rights have not been materially changed; but the organization of the Courts is, of course, wholly distinct.

The judicial power is vested in a Circuit Court, consisting of a Chief Judge, and two Assistant Judges; one Criminal Court, consisting of one Judge, vested with exclusively criminal jurisdiction; one Orphan's Court, consisting of one Judge; and Justices of the Peace.

The Judges of the Circuit Court have all the powers vested by law in the Circuit Courts of the United States, and the Judges thereof. In some respects, even, it has been held that the power of the Circuit Court of the District of Columbia is more extensive than that of the Circuit Court of the United States in the several States, to whom the entire judicial power of the United States, under the Constitution, has not been committed. (Kendall, P. M. General, vs. the United States. 12 Peters, 524.)

From the judgment of this Court there lies an appeal, in cases where the matter in dispute is of the value of one thousand dollars and upwards, to the Supreme Court of the United States.

Of Imprisonment for Debt.

No person can be held to bail in any civil suit, nor imprisoned for any debt, except corporation fines, and then not exceeding ninety days for any one offence. (Act of Congress, Feb. 2, 1853.)

Of False Pretences.

Every person duly convicted of obtaining by false pretences, any goods or chattels, money, bank note, promissory note, or any other instrument in writing, for the payment or delivery of money, or other valuable things, shall be sentenced to suffer imprisonment and labor in the penitentiary, for a period not less than one, nor more than five years. (Act of Congress, March 2, 1831. Stat. at Large, vol. 4, 449.) This act re-enacts the act of 30, Geo. 2, c. 24, respecting false pretences, by which any designed misrepresentation of the defendant's means, by which he obtains money or goods of another, is within the statute. Any and every false assertion, or pretence whatsoever, by means of which the party fraudulently obtains the goods or money, &c., is a false pretence within the statute. (5 Cranch, C't C't R. 647.)

Times of Holding Courts.

The Supreme Court of the United States meets in the Capitol, in December, in every year.

The Circuit Court sits semi-annually, on the 4th Monday in March, and 3d Monday in October.

Suit may be instituted at any time; process being returnable at the commencement of the next succeeding term.

The Criminal Court meets the first Monday in March, third Monday in June, and first Monday in December.

The Orphan's Court meets on Tuesdays and Saturdays of every week.

Justices of the Peace sit in their respective offices every day except Sundays.

Commencement of Suit—Judgment—Execution—Supersedeas.

The first term after institution of suit, is the appearance term; the next (six months thereafter) the imparlance term; at which latter, judgment is entered up by default, upon all liquidated demands (such as notes, bonds, &c., not requiring the inquisition of a jury to ascertain the amount due,) in case there is no appearance by attorney for the defendant; but if there be an appearance by attorney, then the case is continued to the next term, (six months thereafter,) when the case is regularly triable, and can only be continued by mutual consent, or adequate cause shown.

After the expiration of ten days from the adjournment of the term at which judgment is obtained, and within a year and a day after the rendition of the judgment, execution may issue, and if returned *nulla bona*, is renewable every year for twelve years from the rendition of the judgment. (3 Cranch C't C't R. 323.)

The judgment and execution may be superseded, or stayed at any time within sixty days after its rendition, by the defendant giving good and approved security for the debt and costs, payable at the end of six months after such supersedeas. If execution has not issued within a year and a day from the rendition of the judgment, it (judgment) may be revived by *sci. fa.*

Of Justices of the Peace—their Jurisdiction, Powers, &c.

Justices of the Peace have summary jurisdiction in cases of debt, account and contract, express or implied, where the amount or value in controversy, including damages, does not exceed fifty dollars, exclusive of costs; but they can take no cognizance of any action of tort, or trespass, upon any person or property, or any action sounding in damages merely. A justices' judgment constitutes no lien upon real estate. Where the debt or demand exceeds twenty dollars, either party may demand a trial by jury, and from such trial by jury there is no appeal. Either party may appeal to the Circuit Court from the Justices' judgment, in case the same be for more than five dollars, exclusive of costs, except as before stated, in case of jury trial.

The defendant may stay or supersede execution at any time within sixty days after the rendition of the judgment,

by giving approved surety for the debt and costs, payable at the end of six months from the rendition of the judgment. No appeal lies after the judgment has been superseded. Justices have jurisdiction against executors and administrators, where the amount in controversy does not exceed fifty dollars, exclusive of costs. A note or debt of fifty dollars upon which the smallest particle of interest is due, cannot be recovered before a Justice. (Act of Congress, 1823, 3 Stat. at Large, 743. 2 Cranch, C't C't R. 629. 5 Cranch, c. c. R. 509.)

A plaintiff may relinquish interest upon an open account, and bring his action for the principal sum only before a Justice, if the principal does not exceed the sum of fifty dollars, although, with interest, the debt would exceed that sum. (5 Cranch, C't C't R. 505.)

Of Attachment.

If the debtor, whether a resident or non-resident, so abscond, or secrete himself, that the ordinary process of law cannot be served upon him, the creditor, whether resident or non-resident, or some person for him, may make oath of the amount due, and obtain an attachment against the lands, tenements, goods, chattels and credits of the defendant; but "corn for necessary maintenance, bedding, gun, axe, pot, and laborer's necessary tools, and such like household implements, and ammunition for subsistence," are exempt from attachment. And if the defendant should not appear in person, or by attorney, within a year and a day from the awarding of the attachment, the lands, goods, chattels, &c., attached, shall be condemned and sold. The plaintiff must prove his debt before condemnation. A mere equitable interest in lands is not liable to attachment. (Act of Maryland, 1715, c. 40. Act of Maryland, 1795, c. 56. 3 Cranch, C't C't R. 331.)

Quere.—Whether equitable interests, other than those in lands, are liable to attachment? We incline to the negative of the proposition.

Effect of Judgment and Execution upon Property.

A judgment constitutes a lien upon real estate, from the moment of its rendition, but does not bind personal property until execution is issued and lodged in the hands of the Marshal.

What may be Taken in Execution and what not.

Whatever may be assigned and granted, may be taken in execution. Nothing can be taken in execution that cannot be sold. Bank notes cannot be taken in execution, because they are of the nature of choses in action. (Ca. Temp. Hard. 53.) Money may be taken in execution, if in the possession of the defendant, but cannot be taken from his person. (1 Cranch, 117.) Goods pawned shall not be taken in execution, for the debt of him who pawned them, during the time they are pawned. (Com. Dig. title Ex. c. 4.) Mere equitable interests are not liable to execution.

Of Property Exempt from Execution.

Corn for necessary maintenance; gun, axe, pot, beds, bedding not exceeding one bed, and the bedding thereof, for every two persons belonging to the family; wearing apparel; one cow, together with the tools and implements of defendant's trade, are exempt from execution, and for rent. (Act of Maryland, 1715, c. 40. Act of Congress, March 1, 1823, 3 Stat. at Large, 746.) There is no homestead exemption.

Of the Limitation of Actions.

All actions of account upon simple contract, notes and instruments not under seal, detinue and replevin, trespass, and trespass *quare clausum fregit*, must be commenced within three years after the accruing of such cause of action; and actions on the case for words, actions of trespass for assault, wounding and imprisonment, within one year from the time the cause of such actions accrued; and any person entitled to any of such actions, who shall at the time of the cause of any such action accruing, be within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, or beyond the limits of the District of Columbia, such person may bring such action within three years after the removal of such impediment, or coming to full age, sound memory, at large, release from coverture, or returned, or arrived within the limits of said District.

No bill, bond, judgment, recognizance, or other specialty, or sealed instrument, is good, pleadable, or admissible in evidence of any debt, claim, or demand, after the principal debtor and creditor have been dead twelve years, or the debt,

or thing in action above twelve years' standing; saving to all persons under the impediments of infancy, coverture, insanity, imprisonment, or being beyond the limits of the District, the full benefit of all such bills, bonds, judgments, etc., &c., for the space of five years after the removal of such impediments. (Act of Maryland, 1715, c. 23. 1 Cranch, C't C't R. 475, 2 Cranch C't C't R. 112.)

But a judgment may be revived by *scire facias*, at any time within twelve years after the rendition, and such *scire facias* may be renewed from time to time, and the judgment thereby kept in full force as long as the plaintiff, his heirs, executors, administrators, or assigns, may desire. (5 Cranch, C't C't R. 1.)

Actions of ejectment for the recovery of real property, must be brought within twenty years after the cause of action accrued, unless the party is under some of the legal disabilities above mentioned; and then in ten years after such legal disability is removed.

Of Insolvency.

There is, practically, no insolvent law, or act of insolvency of force, except in regard to corporation fines.

Orphans' Court—Its Powers, Jurisdiction, &c.

This Court is empowered to bind out as apprentices, orphan children, the profits of whose estates are not sufficient for their maintenance, children suffering through the extreme indigence of their parents, the children of beggars, illegitimate children, and the children of persons out of the District, where a sufficient maintenance is not afforded. (Act of Maryland, 1793, c. 45.)

This Court has jurisdiction for the probate of wills, granting letters testamentary and of administration, directing the conduct and settling the accounts of executors and administrators, securing the rights of legatees and orphans, superintending the distribution of the estates of intestates, and administering justice in all matters relative to the affairs of deceased persons, according to law.

This Court is empowered to appoint guardians, and to examine, hear and decree upon all accounts, claims and demands between wards and their guardians, and between legatees, or persons entitled to a distributive part of an intestate's estate, and executors and administrators. (Act of

Maryland, 1798, No. 101, c. 15.) An appeal lies from this Court to the Circuit Court of this District.

Of the Rights of Married Women.

The rights of married women remain as at common law. During marriage the being, or legal existence of the woman is suspended; or at least incorporated and consolidated into that of the husband. (1 Black. Com., 442.)

She cannot acquire, hold, or enjoy property in her sole or exclusive right or name, but may by the intervention of a trustee.

The wife is dowable, i. e., entitled to one third of all the lands and tenements in fee simple, fee tail general, or as heir in special tail, of which her deceased husband was seized, either in deed, or in law, even for an instant at any time during the coverture. (7 Greenl. 383.)

And the widow shall be endowed of real estate of which the husband was beneficially seized for his own use, though for an instant of time only. But the widow is not entitled to dower in any lands to which her husband had only an equitable title. (2 Cranch, C't C't R. 673.)

Of Interest and Usury.

All notes, bonds, contracts, &c., for more than six per cent. interest, are void; and every person charging, or taking, directly or indirectly, more than six per cent interest, shall forfeit treble the amount so lent or contracted; one half to go to the United States, and the other half to any person who shall sue for it. (Act of Maryland, Sept., 1704, c. 69.)

The validity of the contract, or claim, in regard to interest, or usury, is to be decided by the law of the place where the contract is made. If valid there, it is valid every where; and vice versa, if void or illegal there, it is void every where. (Story, Conf. of Laws, 242.)

A note payable in specified bank notes, with ten, twenty, or any amount of interest, is not usurious, although there is no evidence that the bank notes are worth less than their nominal value. (Stevenson vs. Unkefer, 14 Ill. R. 103, 4 Wend. 679.)

The owner of a note not originally tainted with usury, may sell it at as great a discount as he pleases, without making the transaction usurious. (7 Wend. 569.)

Merchandize on Commission.

Any person or persons who shall sell, or offer to sell, any goods, wares, merchandize, or other articles of foreign or domestic growth, production or manufacture, on commission, or by samples, or to order the same for other persons, or to receive the same on consignment, as agent, factor, broker, or otherwise, must first obtain a license from the corporation, for which a tax of forty dollars per annum must be paid, such license being transferable upon the books of the corporation. (Cor. Laws, 70, 71.)

The tax upon a licence to any person or persons, not a citizen and actual resident of the city of Washington, authorizing him, her, or them, to sell goods, wares, merchandize, &c., &c., for one year, is one hundred and fifty dollars; for six months, one hundred dollars; and for three months seventy-five dollars; and no license shall be issued for a less period than three months, and such licence shall not be transferable. (Cor. Laws, 77.)

Taxes—Tax Sales—Tax Titles, &c.

Real property, upon which one or more years' taxes are due and unpaid, may be sold at public auction, to satisfy said taxes, &c., after public notice of the time and place of such sale, by advertising once a week in some newspaper printed in the city of Washington, for at least twelve successive weeks.

But the proprietor of any real estate so sold, his, her, or their heirs, agents, or legal representatives, may at any time within two years after such sale, redeem such property, upon payment or tender to the purchaser thereof, the amount of the purchase money paid by him, and ten per centum per annum as interest thereon. And it is further provided, that minors, mortgagees, or others having equitable interests in real property, sold for taxes, shall be allowed one year after such minors coming to, or being of full age, or after such mortgagees, and others having equitable interests, obtaining possession of, or a decree for the sale of such property, to redeem the property from the purchaser, or purchasers, his, her, or their assigns, on paying the amount of the purchase money paid therefor, with ten per cent. interest thereon, and all the taxes that have been paid thereon by the purchaser, or his assigns, with ten per cent. interest on the amount

of such taxes; and also the full value of the improvements which may have been made on such property, by the purchaser or his assigns. (Act of Cong. approved May 15, 1820. Act of Cong. May 24, 1824. Act of Cong. May 17, 1848.)

Of Patents.

If the unsuccessful applicant for a patent, instead of withdrawing, chooses to persist in his claim, he must make his oath or affirmation anew. (Act of 1836, sec. 7.) After which, he may appeal to the Chief Justice, or to either of the Associate Justices of the Circuit Court of this District. (Acts of 1836, sec. 7; 1839, sec. 11; 1852, sec. 1.)

Notice of appeal, the reason of appeal and petition, must all be in accordance with the appellate Judges' rules.

NOTE.—The undersigned is under obligations to Col. M. THOMPSON, of the Washington Bar, for the foregoing Abstract of the Collection and other Laws of the District of Columbia, and for its correctness the known legal abilities of Col. T. will be a sufficient guarantee.

To high legal abilities, Col. THOMPSON unites the character of a prompt, energetic business man, and the undersigned can with confidence recommend him to those who may have occasion to engage his professional services. His card will be found in its appropriate place in List of Lawyers.

J. D. BROWN.

VIRGINIA.

Imprisonment for debt does not exist in this State.

Of the Courts and their Jurisdiction.

There is in every county a County Court, held once a month. Four of these Courts are called Quarterly Courts, and two of the latter are Grand Jury Courts, and the other two are Courts for the trial of all common law and chancery proceedings. In the last two, juries are empanelled, and questions of fact tried. All the other of the County Courts are open to hear and entertain motions, and make orders in chancery proceedings, grant letters of administration, &c., and prosecute misdemeanors. At the monthly County Courts, (except Quarterly,) appeals from Justices' decisions can be heard; but when a sum is over \$20, and the case is *removed* on the application of the defendant, (not on appeal,) from the Justice to the County Court, such can only be tried at a Quarterly Court, (by jury.)

In each county in the State, there are two Circuit Courts in the year, at intervals of six months. This Court is held by one Judge, who is also Judge of the District Court. The jurisdiction of the Circuit Court is the same as that of the County Courts, and appeals from the latter are taken up to the former.

The Circuit and Quarterly Courts have jurisdiction where the demand is \$20.00 $\frac{1}{2}$, and upwards. If one of several defendants only lives in the county where suit is brought, the writ will run into any other county in the State, to bring in the other defendants.

Of Suits, and the Time required to obtain Judgment.

Suits regulated on the Common Law side of the Courts, are made returnable to the Rule days, of which there is one in every month. When the writ is returned, the plaintiff files his declaration, or statement of his cause of action, and

then at the next succeeding rule day the defendant must appear and plead. The issue can, at the same time, be made up—and a judgment may be taken at the Court which sits in the month the plea is made. Thus in two months a judgment may be had, if the suit is brought only that long before the sitting of the Court. But if brought four months before the sitting of the Court, it cannot be had until that time arrives; and there are only two of the County Courts in a year at which judgments in Common Law proceedings can be had.

The proceedings referred to as at *Common Law*, are thus designated to distinguish them from *Chancery* proceedings.

Of the Execution.

After judgment is rendered, an execution against the debtor is issued by the clerk, returnable in thirty days. The debtor has the right to give a delivery bond with sufficient security. If this bond is forfeited, which is almost always the case, then before the next Court—ten days before it sits—notice is given to the obligors in the delivery bond, that the creditor will move for judgment at the Court. Judgment is rendered and execution is issued against the obligors, returnable in sixty days, and endorsed "*no security to be taken.*" On this the money comes at the end of the sixty days.

If execution is in the hands of the Sheriff, and no property is found to levy upon, but you ascertain that another has money, bonds, or other property in his hands belonging to, or for the use of, the debtor, you can suggest to the clerk of the Court, that your lien is good on such money, &c., and on this suggestion filed by plaintiff, the party holding money, &c., the debtor will be summoned by a subpoena to appear before the Court, and there to state on oath what and how much was in his hands at the time of service of the subpoena, belonging to the judgment debtor.

And again, if a debtor has effects secreted, or money about his person, the creditor, if he have judgment and execution, may summon the debtor to appear before a Commissioner, and having filed, at the time of the issue of the subpoena, interrogatories before said Commissioner, the said judgment debtor must answer the same; and if he refuses or fails to do so, he can be attached—and if he persists in refusing, he can be imprisoned.

Of Property Exempt from Execution.

There are in this State no general exemption laws; but there is a law allowing to poor debtors one bed, one cow, five barrels of corn, &c., if they be the heads of families. To avail themselves of the benefits of this act, they must make affidavit that they have surrendered all their estate, and pray the exemption. This affidavit is presented by the debtor to the officer proceeding to sell, and small articles are allowed him, if he be the head of a family.

Of Attachments.

Non-resident debtors having property within the State, may be proceeded against by attachment; and where there are several defendants, some of whom reside in the State, and others out of it, the plaintiff may have a writ of attachment against the property of those who are non-residents. The proceeding must be founded upon an affidavit setting forth that there is a present cause of action therefor—that the defendant, or one of the defendants is not a resident of the State, and that affiant's belief is that defendant has estate or debts due to him. Bond with sufficient sureties must be given before the attached property can be seized and sold.

In the case of resident defendants, attachment may issue upon affidavit setting forth the justice of the plaintiff's claim, and also that affiant believes that the defendant is removing or intends to remove his estate, or property, or a material part of such estate, or the proceeds thereof out of the State, so that process of execution on a judgment in said suit, when it is obtained, would be unavailing. A like bond is necessary, as in the preceding case.

Justices of the Peace can issue attachments in the case of resident defendants, when the amount brings the case within their jurisdiction (for which see head "Jurisdiction of Justices"). Bond must be given.

The defendant, in any of the foregoing cases, may release his property upon giving bond with ample security, with condition to abide the judgment or decree of the Court in the case.

A Bill in Chancery may be filed against any party for which an attachment might be sued out of the Clerk's office, if the claim were recoverable at law, upon affidavit according

to the nature of the case, and filing said affidavit with his bill, he may require the clerk to endorse on the *subpoena* an order to the officer to whom it is directed, to attach the specified property named in such affidavit, and the estate of the defendant against whom the claim is, or in the hands of, or the debts due or to become due by the other defendants.

Jurisdiction of Justices.

Justices of the Peace have jurisdiction on all sums of money from *half a cent* to *fifty dollars*, exclusive of interest; when the demand without interest exceeds twenty dollars, the defendant can, before the case is heard by the Justice, ask him to return it to the County Court, which is done accordingly, and the case tried by a jury. Appeals on all sums over *ten dollars* may be taken from judgments of Justices within thirty days from the date of the judgment—which appeal is to the County Court, and is heard *de novo* at the monthly Terms, or at the quarterly Terms, by giving notice to the debtor ten days previous to the sitting of the Court; on a judgment rendered by a Justice, execution is issued by him, returnable to the County Court in thirty days.

Of the Rights of Married Women.

In this State, a married woman can only hold separate estate, free and clear of the debts of her husband, through the intervention of a trustee. There is no statute enabling her to take and hold separate estate in her own name. If she engages in trade, the common law rule applies, and her separate estate is liable for her debts, and may be subjected to the payment of them by and through the decree of a Court of Chancery.

Of the Statute of Limitations.

On notes and contracts not under seal, five years is the period during which suit must be brought. After that, the debt is barred. On bonds and contracts under seal, the statute applies in twenty years, and then only *presumptively*. In both cases the presumption may be rebutted by testimony proving non-payment, or reasons for non-payment.

Executors and administrators are compelled, by statute, to plead the Statute of Limitations on all sums evidenced as

simple contract debts after five years ; bonds and specialties after twenty years, and store accounts after two years.

The Statute of Limitations does not run against a creditor if his debtor has left the State ; nor will it run if the creditor proves the debtor to be insolvent ; nor in cases where the debt or obligation was contracted out of the State, and the debtor has moved into the State, provided the creditor is a non-resident.

. Of Interest and Usury.

The legal rate of interest in this State is six per cent. per annum. Any rate above this is usurious. Contracts made here by non-resident creditors touching interest, are regulated by the laws of the State. Contracts made abroad by non-resident creditors, will be enforced here in accordance with the laws of the State or country where they are made. This is a principle recognized by the common law, and is of almost universal application.

All contracts and assurances, made directly or indirectly for the loan or forbearance of money, or other thing, at a greater rate than six per cent. per annum, are void by statute.

Factors and *Consignees* are governed in their business transactions by the general principles of commercial law. There are no special statutes in this State in regard to them, except those taxing their business.

NORTH CAROLINA.

Of Imprisonment for Debt.

In this state no *capias ad satisfaciendum* is allowed to issue, unless the plaintiff, his agent or attorney, shall make affidavit, in writing, before the Clerk of the Court, in which he may have obtained his judgment, or the Justice of the Peace to whom he may apply in cases within his jurisdiction, that he believes the defendant *has not* property to satisfy his judgment, which can be reached by a writ of *feri facias*, and *has property*, money or effects, which cannot be reached by *feri facias*; or that he has fraudulently concealed his property, money or *effects*; or that he is about to remove from the State.

Any debtor, taken upon such a *capias* so issuing, may tender to the officer arresting him, a bond payable to the party, at whose instance the arrest was made, in twice the amount of the debt, conditioned for his appearance at the next Court, to which the execution is returnable, then and there to stand to and abide by such proceedings as may be had in relation to his asking the benefit of the act providing for insolvent debtors.

Upon his appearance at the Court, it is lawful for him to move to be admitted to take the oath prescribed, or to answer to his schedule filed with the Clerk ten days before Court; and it shall be the duty of the Court, upon it appearing to them, that at least ten days' notice has been given in writing to the creditors, to admit him so to take the oath, or swear to his schedule, and thereupon to discharge him; unless the creditor shall suggest fraud or concealment of property. Then the Court orders an issue to be made up and submitted to a jury. Or if any debtor so arrested, and being unable to give bail, shall have remained in prison twenty days, he may prefer a petition to two Justices, or to the County Court, or Judge, (he having given due notice to his creditor,) to be allowed to discharge himself by taking an oath, "that he hath not the worth of ten dollars in any

worldly substance, over and above his wearing apparel, &c.," and if there be no one to prove the contrary, it shall be the duty of the Justices, Court or Judge, to allow him to discharge himself.

In no case can females be imprisoned for debt; with this exception, all persons arrested on original process, are liable, for want of bail, to imprisonment.

Of the Courts, Jurisdiction, Process, &c., &c.

In this State, there are held, for each county, semi-annual sittings of "The Superior Courts of Law and Equity," and quarterly sessions of the "County Courts."

No suits shall be commenced in either of these Courts for any debt of less than sixty dollars in value, due either as an unliquidated balance on any contract or agreement; or for goods, wares and merchandize sold and delivered; or for work and labor done, or for specific articles, whether the same be due by obligation, note or assumpsit: nor for any sum of less value than one hundred dollars, due by bond, promissory note, or liquidated account, signed by the party to be charged.

Actions of debt, &c., are to be brought to the County Court of that county wherein the defendant resides; but in the Superior Courts, it is at the option of the plaintiff to sue either to the Court of his own, or the defendant's county; that is, where both parties live in this State. In all cases, where the plaintiff lives beyond the State, must the suit be brought in the defendant's county.

Court judgments are a lien upon real estate from the date of their delivery, and upon personal property from the teste of the executions, which may be issued upon them.

Of the Jurisdiction of Justices.

Single Justices have jurisdiction of all debts and demands due on bonds, notes and liquidated accounts, when the principal of the claim does not exceed one hundred dollars; and of all debts and demands of sixty dollars and under, for a balance due on any special contract, note or agreement, or for goods, wares and merchandize sold and delivered, or for work and labor done, whether due by obligation, note or assumpsit.

Justices' judgments create a lien upon the property of the defendants, only from and after the date of the levy.

Executions issuing upon such judgments, must be, upon their face, returnable within three months from their date. These too must first be levied upon the personal effects of the defendant, and only in case of a want of such personalty, can they be levied upon his lands and tenements.

Stay of Execution before Justices.

Any person against whom a single magistrate may give a judgment for a debt or demand, may stay the execution therefor for twenty days, for all sums not exceeding four dollars; for sixty days for all sums above four, and not exceeding ten dollars; for one hundred and twenty days for all sums above ten, and not exceeding twenty dollars; and for six months for all sums above twenty dollars; upon giving sufficient security for the faithful payment of the debt and damages.

Of Execution.

Execution may issue upon a judgment at any time, within one year from the time of its rendition. After one year the defendant is entitled to have a scire facias issued to him. The defendant's goods and chattels are first to be taken in satisfaction of all executions; though, if he have none, or not sufficient to discharge the debt and damages, then his lands and tenements are to be taken.

All defendant's personal property is subject to execution, and all his real estate; though the Sheriff, at the election of the plaintiff, may deliver to him the chattels, or one half of the lands of the debtor, to be retained until the debt and damages are levied.

Goods and chattels, lands, tenements and hereditaments, held in trust for the defendant, are all subject to execution; as are also equities of redemption in lands and tenements.

Of Attachments.

Upon any person's making oath to any Judge or Clerk of any Court, or to any Justice of the Peace, that any other person, indebted to him, hath removed, or is removing himself out of the county privately; or so absents or conceals himself, that the ordinary process of law cannot be served upon him, it is the duty of such Judge, Clerk or Justice, to grant an attachment against the estate of such debtor.

Such debtor's estate, wherever the same be found, and whether in the hands of others, is liable to be seized under process so granted; debts due him, though not legacies, or money in the hands of a Sheriff or Clerk.

Plaintiff, before attachment issues, is to give bond, payable to defendant in double the sum of his debt, conditioned for the payment of all costs and all damages, which may be incurred by reason of his having wrongfully sued out such attachment.

Justices of the Peace are also authorized to issue like process, under like provisions, returnable before themselves, in cases where by law they have jurisdiction.

It is in the power of the defendant to replevy property so attached, by giving bond, well secured, for his appearance at Court, or before the Justice.

When real estate is attached under a Justice's attachment, the proceedings must be returned to the next County Court.

Of the Exemption Laws.

By Revised Statutes, Chap. 58, Sec. 1st, the following articles are to be free from execution: Wearing apparel, one bed and furniture, one wheel and cards, one loom, working tools, and arms for muster; one bible and testament, one hymn book, one prayer book, and all necessary school books. By the Act of 1840—1, Chap. 22, it is enacted that every person, having a family, shall be entitled to have, free from execution, one cow and calf, two barrels of corn, and fifty pounds of bacon, pork or beef, or one barrel of fish. And by the Act of 1844—5, Chap. 32, it is enacted, that in addition to the articles then exempt, every householder shall have, free from execution, the necessary farming tools for one laborer; one bed, bedstead and covering for every two members of his family; two month's provisions for his family; four hogs; and all necessary household and kitchen furniture, not to exceed in value fifty dollars; and that all conveyances of the same for the payment of debts or otherwise, shall be void.

Of the Statute of Limitations.

All actions ex contractu, except those founded upon specialties, must be brought within three years next after the cause of action accrued.

Presumption of payment, in the case of judgments and all contracts and agreements, arises after the lapse of ten years, from the time the cause of action accrues.

Creditors of any person deceased must make their claim within seven years after the death of their debtor, or otherwise their claim will be forever barred.

Creditors of any person deceased, if residing within the State, must within two years, and if without the limits of the State, must within three years, from and after the qualification of the executors or administrators, present their claims, otherwise they are barred.

The presumption of payment, or abandonment of the right of redemption, on mortgages, arises after the lapse of ten years.

Of Executors and Administrators.

Executors and administrators are allowed two years to settle the estate of their decedent, and nine months to plead to suits that may be brought against them. Due notice must be given to all creditors, by advertisement, within two months, at the Court-house door and other public places in the county, to bring in their debts and demands.

Real estate may be sold, when the personal assets are not sufficient to pay the debts, and it is the duty of the executor or administrator, whenever a deficiency of assets is ascertained, to file his petition for a sale of real estate in the County Court, and it is the duty of said Court so to order it to be sold.

The dignity of debts is the same in this State as at common law, except that debts due by bills, bonds and promissory notes, whether with or without seal, and all liquidated accounts signed by the debtor, are put upon the same footing as being of equal dignity.

Executors and administrators have a right to retain for their own debts, against all others of equal or inferior dignity.

Of the Rights of Married Women.

The Act of 1848,—9, Chap. 41, enacts that, from and after that time, all lands and real estate owned by any married woman at the time of her marriage, and all that she may subsequently, by any means, acquire, shall not be subject to be sold or leased by the husband, except by and with the

consent of the wife; to be effectuated by her privy examination before some competent tribunal; and the same act declares that the interest of the husband in such bonds, shall not be the subject of sale for any debt he may owe.

Of Interest and Usury.

Legal interest is six per cent. per annum, and all contracts for a higher rate are absolutely void; and all persons taking and receiving such higher rate, shall forfeit the double value of moneys or other things so lent, the one half to the State, and the other half to the informant, to be sued for in any Court of Record in the State.

SOUTH CAROLINA.

Of Arrest for Debt.

In all cases, where the debt or sum in controversy exceeds thirty dollars and sixty-two cents, the debtor may be arrested and held to bail. An affidavit of the amount of indebtedness must be annexed to the writ or process. A debtor may also be arrested, when he is about to abscond before the maturity of the debt, with intent to evade the service of process upon him.

Of Attachment.

An attachment against the property of a debtor may be issued in any case where such debtor is a non-resident, or absconds, or is removing from the district in which he resides, or conceals himself, so that process cannot be served upon him. The plaintiff, in order to obtain attachment, must make affidavit to the facts upon which the application for the same is made.

Of the Exemption Laws.

The property exempt from execution consists of the following articles:

Two bedsteads, beds and bedding; one spinning wheel and two pairs of cards; one loom; one cow and calf; ordinary cooking utensils, and provisions to the value of ten dollars; to a farmer, the necessary farming implements; to a mechanic, the tools of his trade.

The debtor is also entitled, as a *homestead exemption*, to a dwelling house, with the necessary out buildings appurtenant to the same, and fifty acres of land, and one horse, and provisions not exceeding in value the sum of twenty-five dollars; *provided*, such real estate is not within the corporate limits of any city or town, and does not exceed in value the sum of five hundred dollars. In case the debtor owns more

than fifty acres of land, three commissioners are appointed, who are required by law to set apart fifty acres, including the dwelling or mansion house, in the manner most favorable to the debtor's family. The remainder of the estate remains liable to execution—and if the fifty acres set apart exceed five hundred dollars in value, it is the duty of the commissioners, to proceed to reduce it in extent, until its value is brought to that limit. The commissioners are appointed, on the application of either the plaintiff or defendant, by the Clerk of the Court, who keeps a record of the appointment of the commissioners, and of the return made by them.

Of the Rights of Married Women.

The rights of married women in this State are the same as at common law in most particulars. Deeds of marriage settlement must be recorded in the office of the Secretary of State, and of the register of mesne conveyance, within three months after their execution.

Of Interest and Usury.

Seven per cent. is the legal rate of interest. The penalty for receiving more is a forfeiture of all the interest and the costs.

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GEORGIA.

When a Debtor may be Arrested.

In all cases the defendant may be arrested at the commencement of the suit, if the plaintiff, his agent, or attorney, makes affidavit of the amount he claims of the defendant, and that he has reason to apprehend the loss of said sum or sums, or some part thereof, unless the defendant is held to bail. He is then arrested, and may give bond for his appearance at Court. If afterwards a *ca. sa.* issues, and he is found within the county, the bail is discharged; or the bail may be discharged at any time by a surrender of the principal. If the defendant is arrested on a *ca. sa.* he may give bond, with security, to appear at the next term of the Court, to take the benefit of the insolvent laws. If he does not appear, judgment is signed against him and his security, and he cannot again give bond, but must go to jail.

Of the Courts and Process.

Justices of the Peace have civil jurisdiction in all cases where the principal of the demand does not exceed thirty dollars, and they hold what is called the *Justices' Court* once in every month. If either party desires it, there may be a trial before a jury of five men; but there is no appeal to a higher court. The proceedings may be removed by *certiorari*, however, for an error in law. Process has to be served ten days before the sitting of the *Justices' Court*. When judgment is obtained, and execution issues thereupon, the Sheriff must return the writ within thirty days from the date of the judgment or pay the debt.

Where the principal of the demand exceeds thirty dollars, suit must be brought in the *Inferior and Superior Courts*, each of which are held every six months, making one Court in each county every three months. Process must issue twenty days before the term of any Court, and all suits must be brought in the district where the defendant resides. Judgment is obtained at the second term of the Court to

which the suit is brought, unless a serious defence is set up, in which case continuances are allowed to either party upon good case shown. An appeal from the Inferior and Superior Courts, to a special jury in the Superior Court, to be drawn from the Grand Jury. In both these Courts, the Sheriff is obliged to make his return or pay the debt six months after judgment is obtained.

Of the Stay of Execution.

Execution may be stayed in the Inferior and Superior Courts for sixty days after judgment, upon giving bond with approved security for the debt. At the expiration of the stay, execution issues against both principal and surety.

Of Attachments.

Attachments against the property of the debtor may be issued upon complaint, made under oath, setting forth :

1. That the debtor resides out of the State.
2. That he is actually removing out of the State, or out of any county.
3. That he has absconded, or is about to abscond.
4. That he conceals himself. Or,
5. That he stands in defiance of a Peace officer, so that the ordinary process of the law cannot be served upon him.

An attachment can be levied upon all or any property of the defendant, either real or personal, or both, and may be sold (if perishable) at once by order of the Court ; and if not perishable, after judgment is obtained for the debt, which would be at the second term of the Court after the levy. An attachment only binds the property levied upon ; therefore, a judgment obtained by attachment is worthless after the property levied upon is exhausted, if it should prove insufficient to pay the debt.

To obtain an attachment, the Plaintiff must make affidavit by himself, agent, or attorney, of the amount of his debt, and the cause why he claims the attachment ; and must also give bond and security in twice the amount of his claim, to indemnify the defendant in case he is cast in his claim.

Of the Exemption Laws.

The following named articles are exempt from execution : The equipments of military men, and the horses and wear-

ing apparel of troopers ; two beds and bedding, a spinning wheel and two pairs of cards, a loom, common tools of a debtor's trade, ordinary cooking utensils, thirty dollars' worth of provisions, and the family bible ; a cow and a calf, one horse or mule to the value of fifty dollars, and ten swine. The same privileges are extended to widows and their families during the widowhood.

Homestead.—Every white citizen of the State, being the head of the family, may own fifty acres of land, exempt, except from execution for the purchase money of the land, for the payment of which the land shall be bound. But the land thus exempt must include the dwelling-house and improvements of the original tract, the value of the whole not to exceed two hundred dollars.

Of the Statute of Limitations.

Suits to recover money due upon open book accounts, must be brought within four years after the same was demandable, upon promissory notes, and other written unsealed instruments, within six years. Upon contracts or obligations under seal, within twenty years. Non-resident creditors are affected thereby the same as residents.

Of the Rights of Married Women.

Married women may hold property by the intervention of Trustees, where the same is conveyed to them at or before marriage ; or, afterwards, by the husband, in consequence of any obligation to do so existing at or before marriage ; or where the husband (being solvent) makes a conveyance for the benefit of his wife, or any other person conveys property for her sole and separate use.

Of Interest and Usury.

By the Statute of 1845, the legal rate of interest is seven per cent ; and the penalty for taking more is the forfeiture of the whole interest, legal as well as usurious.

Of Factors or Consignees.

Sales on commission, by our merchants, are regulated by the common law merchant, of England, and have not been changed or altered by statute.

ALABAMA.

Of Imprisonment for Debt.

No person can be arrested in this State, on any suit founded upon a contract, unless the plaintiff makes an affidavit that the debtor is about to abscond, or has conveyed, or is about to convey his property with a fraudulent intent; or that he has money or effects which he fraudulently withholds; or that the debt upon which suit is brought, was fraudulently contracted. If, in any of the above cases, the debtor is arrested, he may procure his discharge from such arrest, upon making oath that the statements contained in the plaintiff's affidavit are untrue, and that he has nothing wherewith to pay the debt; or, by rendering a schedule of all his property, and making oath that he has not property to the value of twenty dollars besides that named in the schedule, and such as is by law exempt from execution; and that he has not disposed of any property to secure the same to his own use, or to defraud creditors. In case the defendant furnishes a false or fraudulent schedule, he is liable to a criminal prosecution, and upon conviction therefor, may be imprisoned for a term not exceeding one year.

Of Attachments.

An attachment may be issued in any case, upon the plaintiff making an affidavit that the debtor absconds, secretes himself, or resides out of the limits of the State, so that process of law cannot be served upon him; or, that the debtor is about to remove his property out of the State, whereby the plaintiff may either lose his debt, or be compelled to sue him in another State; or, that the debtor has fraudulently disposed of, or is about to dispose of his property with a fraudulent intent; or, that he has property liable for the satisfaction of his debts, which he fraudulently withholds from his creditor or creditors. The affidavit must also state the amount due the plaintiff from such debtor—and that the

attachment is not applied for with the intent, or for the purpose, of vexing or harassing the debtor. Prior to the issuing of the attachment, the plaintiff must execute a bond with surety in double the amount claimed to be due, for the payment of any damages which the debtor may sustain by reason of the attachment being wrongfully or improperly sued out.

An attachment in aid of a suit at law may be issued pending said suit, upon the conditions, and in the manner above pointed out.

Of Judgment and Execution.

Judgments are a lien upon real property from the time they are rendered, and the lien extends throughout the whole estate. Executions bind the personal property of the defendant only from the time of their delivery to the Sheriff. As a general rule, one year is required to collect money by legal proceedings.

Of the Exemption Laws.

The following articles of personal property are exempt from levy and sale upon execution: two bedsteads, beds and furniture; three cows and calves; one work horse, mule, or pair of oxen; twenty hogs; twenty sheep; five hundred pounds of meat; one hundred bushels of corn; all meal at any time on hand for family use; two plows, and two sets of plow gears; one table; one pot; one oven; two water vessels; one dozen cups and saucers; one set of knives and forks; one dozen plates; one coffee pot; two dishes; two pair of cotton cords; two spinning wheels; one churn; three chairs; two axes and two hoes; one horse or ox cart; one gun; all books and family portraits, and all tools or implements of trade. The landlord of any property has a lien upon the goods and property of his tenant for rent not exceeding one year, which must be tendered him before the goods and chattels lying upon the demised premises can be taken.

Of the Homestead.

Forty acres of land, not exceeding in value the sum of four hundred dollars, are exempt from execution, provided such land does not lie within the corporate limits of any town or city.

Of the Rights of Married Women.

The rights a married woman enjoys in this State by statute, vary materially from her rights at common law. All her property, including that which she has at the time of her marriage, as well as that which may accrue to her after marriage, is declared by statute to be her separate estate, notwithstanding her marriage—and the husband acquires no right to the property by the marriage. The separate estate of the wife, however, vests in the husband as her trustee, and he has a right to manage and control the same, without liability to account to the wife for the proceeds. But such separate estate is not liable for the husband's debts—and the husband and wife are jointly liable for all necessities furnished for the use of the family.

Of the Widow's Dower.

In all cases where no provision is made for the widow in the last will and testament of her deceased husband, she is entitled to one-third part of the real estate of which he died seized, and of which she has not relinquished her right of dower; and to one-half of the personal property if there are no children living, or not more than one child. But if there be more than one child, and less than five, she is then entitled to a child's part; and if there be five children or more, then she is entitled to one-fifth absolutely. Unless the estate is insolvent she is allowed one-half of the husband's estate, where he dies without any lineal descendants.

If the widow is provided for by will, she has one year from the probate of the same, in which to accept or dissent from such provision; and she may retain the principal mansion house and plantation free of rent until her dower is assigned her.

Of Interest and Usury.

Eight per cent. is the legal rate of interest. In all contracts for a higher rate, the principal sum, without interest, can alone be recovered.

FLORIDA.

Of Imprisonment for Debt.

In this State there is no arrest upon civil process, nor imprisonment for debt, "and no person shall be required to give bail for his or her appearance to any original writ or summons emanating from a Court of Law."

Of Suits, Courts, and their Jurisdiction.

Judgment may be obtained in the Circuit Court where there is no defence or appearance, at the first term. The second term is *trial* term. The Circuit Court is held twice during the year—having a Spring and Fall term.

Justices of the Peace have jurisdiction of suits for the recovery of debts where the principal sum due does not exceed fifty dollars. An appeal lies from their judgment to the Circuit Court in all cases.

Of Attachments.

Attachment issues upon affidavit "that the amount of the debt or sum demanded is actually due, and also that the party from whom it is due is actually removing out of the State, or resides beyond the limits thereof, or absconds, or conceals himself, so that the ordinary process of law cannot be served upon him; or is removing his property beyond the limits of the State, or secreting, or fraudulently disposing of the same for the purpose of avoiding the payment of his just debts." The plaintiff in attachment, before the writ can issue, is required to give bond in double the amount of the debt with two sureties conditioned to pay all costs and damages the defendant may sustain in consequence of improperly suing out the attachment.

Attachment may also issue where the debt is not due, but

will become due within nine months upon filing a like affidavit and bond. All property of the defendant, real and personal, not specially exempted by law, is subject to attachment.

Debts due the defendant may be *garnisheed* upon the issuing of attachment, and a return of *nulla bona* thereon—or upon affidavit that the defendant has not sufficient visible property to satisfy the sum demanded. Garnishee process may issue upon any judgment on the filing of the like affidavit.

Of Execution.

Execution issues ten days after judgment. The first Monday in every month is a day of sale. The sales advertised for December, January, February and March, are peremptory. All other sales may be stayed until the first Monday of December following, on giving bonds to the Sheriff for the forthcoming of the property levied upon.

Of the Exemption Laws.

1. The necessary wearing apparel and bedding of every person, and the necessary wearing apparel, bedding, and kitchen furniture of every family.

2. The following property may be claimed as exempt from execution, attachment and distress, except for a violation of the criminal laws:

The horse, saddle and bridle, or the horse, saddle, vehicle and harness of every clergyman, not exceeding in value one hundred dollars. The horse, saddle and bridle, medicine, and professional books, and instruments of every surgeon, midwife, or physician, not exceeding in value one hundred dollars. One set of working tools or instruments of every mechanic, artist, dentist, artisan or tradesman, not exceeding in value one hundred dollars.

The horse and gear, not exceeding in value one hundred dollars, belonging to every farmer who is in the actual cultivation of five or more acres of land within the State.

Every actual housekeeper may claim as exempt one hundred dollars worth of property, waiving all other exemptions above enumerated; 40 acres of land of every farmer, ten acres thereof being in cultivation, not exceeding in value

two hundred dollars, is exempt from execution, attachment, and distress, except for a violation of the criminal laws, or fines imposed by a Court Martial or Road Commissioners, or for taxes due on the same for County or State purposes.

Also, the boat and gun of every fisherman, pilot, or resident upon any island or coast, or on any bay, harbor, or inlet of the State, and the boat and flat of every ferryman; in either case, not exceeding in value two hundred dollars.

No form of any note or contract waiving the above exemptions is in use.

Of the Limitation of Actions.

All debts and demands of whatsoever nature against the estate of any testator or intestate which shall not be exhibited within two years shall forever afterwards be barred; *provided* that the executor or administrator shall give notice by advertisement, that the same will be barred, if not exhibited within the time aforesaid—saving to married women, infants, persons of unsound mind, imprisoned, or beyond the limits of the United States, in the naval or military service thereof during war, the said term of two years after their respective disabilities are removed. And adverse possession of seven years will bar an entry upon real estate.

Actions for simple contract debts are barred in five years. All book accounts for goods sold are barred in two years, except in case of the death of debtor or creditor, in which event two years are allowed from the death of either party in which to bring suit. All items of the account not actually charged and delivered within two years, to be rejected from the account. Non-resident creditors are not exempt from the operation of these statutes.

Rights of Widows and Married Women.

A married woman is entitled to dower in the real estate of the husband, to wit: one-third of the lands of which her husband was seized during coverture, *a life estate therein.*

Of the personalty.—If there be no children, or but one child, she shall take *one-half*; if more than one child one-third absolutely, except slaves, in which she takes a life

estate, and the widow's claim to the personal estate is preferred to creditors and all others.

If the widow elect to take a "child's part," she takes a fee simple estate in the realty, and an absolute title in the personalty, including slaves, with power to dispose of the same by will or otherwise.

Rights of married women to property, derived under the Civil laws of Spain, are secured by the Act of December 23d, 1824, with power to use, convey, or devise the same.

A woman possessed of real and personal property marrying a citizen of Florida, her title to the same continues separate, and is not liable for the husband's debts—but shall remain in the care and management of the husband.

Property to which the wife becomes entitled during marriage, is subject to the same provisions. The husband is entitled to no compensation for his services in the management of the wife's property. All sales of the wife's property must be made by joint conveyance of husband and wife. The husband is not liable for the debts of the wife contracted before marriage. On the death of the wife, where there are children, the husband takes "the same interest which a child would take and inherit"—if there be no children, the husband takes the entire estate.

All the wife's property must be inventoried and recorded within six months after marriage, or after the property may have been acquired, "at the peril of becoming liable for her husband's debts," but an omission to do this does not otherwise confer any rights on the husband.

Of Interest and Usury.

The legal rate of interest in this State is six per cent. per annum. Judgments can bear but "six per centum per annum, and no more." By agreement of parties, eight per cent. may be taken, but no higher rate is allowed by law. Upon usurious contracts the interest alone is forfeited.

A person convicted of usury is disqualified from being a director in any bank in this State.

Of Factors or Consignees.

All commission merchants and factors pay to the State one-half of one per cent. on all commissions received by them.

The statutes of limitation do not run against demands arising "between merchant and merchant, their factors or servants," until an account stated and balance struck between them.

"The common and statute laws of England, which are of a general, and not of a local nature, down to the fourth day of July, 1776, are declared to be of force in this State," where the same do not conflict with the Constitution and Laws of the United States, and the Acts of the General Assembly of the State.

MISSISSIPPI.

Of Imprisonment for Debt.

By an act of the Legislature passed in 1839, imprisonment for debt is abolished, except in cases where fraud is charged. In such cases, the jury find the issue especially in favor of the plaintiff, and that the defendant has committed a fraud upon him (the plaintiff).

Obtaining Goods under False Pretences.

This is rendered highly penal by statute. The offence itself is defined pretty much in the same terms as in other States where such a law exists.

Of Suits for the Recovery of Money.

Suits for the recovery of money, where the amount exceeds fifty dollars, can alone be brought in the Circuit Courts, which are held twice each year. The first term after bringing suit is called the appearance term, at which the cause is docketed, and the pleadings made. The second term is the trial term, when, if there is no defence, judgment is rendered, and five days after the adjournment of the Court execution issues; a forthcoming bond may then be given by the defendant, which acts as a statutory judgment from the date of its forfeiture, but execution cannot issue on the forfeited bond until after the next term of the Court. When execution issues upon a forthcoming bond, no security can be taken—the money must be made. The form of pleadings in the Circuit Court was changed by an act of the Legislature, passed in 1850, to a direct statement of facts, and corresponds very nearly with the form of pleadings in the State of New York.

Of the Jurisdiction of Justices of the Peace.

Justices of the Peace have jurisdiction in civil cases, where the principal of the amount or sum in controversy does not exceed fifty dollars.

Of Attachments.

Attachment may be issued whenever any creditor shall make complaint, on oath or affirmation, to any Judge of the Supreme Court, or Justice of the Peace of any county, (in cases where the amount brings it within his jurisdiction,) that his debtor has removed, or is about removing out of the State, or so absconds or conceals himself that process cannot be served upon him, and further makes oath to the amount of his demand. A bond must be given by the plaintiff to secure the payment of the costs and damages, that the defendant may recover against him, in case the attachment has been sued out without proper cause.

Of the Statute of Limitations.

All real actions must be brought within ten years from the time the cause of action accrued; actions upon notes and bills within six years; upon open accounts within three years, except accounts between merchant and merchant, their agents and factors, which may be brought within six years. If the debtor is out of the State any part of the time, the statute does not run during such time. No acknowledgment will remove the bar, or take the case out of the statute, unless it be made in writing, and signed by the party to be charged; or unless the identical claim sued on, is presented and acknowledged to be due and unpaid, and a promise made to pay it.

Of the Exemption Laws.

The following property in Mississippi is exempt from levy and sale upon execution: the tools of a mechanic or farmer; one plough; one horse, the value of which does not exceed one hundred dollars; three cows and calves; three beds and bedding; one hundred and fifty bushels of corn; the arms and equipments of persons subject to military duty; household goods and kitchen furniture to the value of five hundred

dollars ; one hundred and sixty acres of land, or *fifteen hundred* dollars' worth of real estate in a town or village, exclusive of improvements.

Of the Rights of Married Women.

It is provided by an act of the Legislature of 1839, that any married woman may become seized and possessed in her own right of any property, either real or personal, provided the same does not come by and through her husband. The Act of 1846, on the same subject, authorizes married women to be sued jointly with their husbands in the Common Law Courts, on all contracts made by either of them for the supplies furnished to, and for the separate plantation of the wife, and makes the income of the wife's separate plantation chargeable for the same. The said Act not only gives the wife her separate property, but also the income of the same, which cannot be made liable for the debts of her husband.

A schedule of the wife's property must be recorded in the office of the Clerk of the Probate Court, within three months after its acquisition.

Of Interest and Usury.

The legal rate of interest, (as enacted at the last session of the Legislature, 1854,) on any loan or contract for money in writing, is ten per cent. A contract for more is void only for the excess.

LOUISIANA.

Of Imprisonment for Debt.

Imprisonment for debt has been abolished. A debtor may be arrested at the instance of a creditor, when said debtor is about to leave the State permanently without leaving in it sufficient property to satisfy the judgment he expects to obtain in the suit he intends to bring against him.

An insolvent debtor may also be arrested when a complaining creditor charges him with fraud, and giving preference to his creditors within the last twelve months—and when such fraud has been established, said debtor may be confined in the penitentiary for three years. The creditor before obtaining such order of arrest must make his affidavit setting forth the grounds for such order.

A debtor may be discharged from arrest by giving to the sheriff his obligation for a sum exceeding by one fourth that which is demanded with the security of one good and solvent person that the debtor shall not depart from the State for the term of three months. A debtor may also be discharged from imprisonment by filing in the Court from which the order of arrest issued, a schedule of his affairs, and surrendering his property to his creditors. A debtor cannot be confined in any case longer than *three months*, unless convicted of fraud.

Of Suits for the Recovery of Money.

In all cases where the amount in controversy is from one to fifty dollars, Justices of the peace have exclusive original jurisdiction; from fifty to one hundred dollars, the Justices' and District Courts have concurrent jurisdiction; in all cases where the amount exceeds one hundred dollars, the District Court has exclusive original jurisdiction.

All judgments whether in Justices' or in District Courts are a lien upon real estate and slaves *only* where they are duly recorded in the office of the Recorder of Mortgages. No

lien, resulting from a judgment, attaches to personal property in any case—but a seizing creditor has a privilege on personal property after seizure.

Appeals may be taken in Justices' Court where the amount in dispute is *ten dollars*, and in District Court where the amount is *three hundred dollars*.

Appeals are either *devolutive*, which do not stay execution, or *suspensive* which do—in the latter case the appellant must give his bond with security in favor of appellee for a sum exceeding by one half the amount of the judgment appealed from.

Of Execution.

An execution may issue at any time on judgments in Justices' Court three days after notice—and in fifteen days after judgment in District Court, provided in either case no suspensive appeal has been taken. If the case is not appealable, execution may issue immediately after the judgment has been signed by the Judge.

All rights, credits, and property of whatever kind are liable to seizure under execution, except such as are named under *exemption*.

Stay of Execution.

No stay of execution is known to the law, unless by special agreement between the parties.

Of Attachment.

Attachments may issue, 1st. When the debtor is about leaving the State *permanently*, without there being a possibility, in the ordinary course of judicial proceedings, of obtaining a judgment against him previous to his departure, or when such debtor has already left the State *permanently*.

2nd. When such debtor resides out of the State.

3d. When he conceals himself to avoid being cited, and forced to answer the suit intended to be brought against him. In either case the complaining creditor must annex his affidavit as to the correctness of his demand, the reasons for asking for such conservatory process, and must give his bond, with approved security, in favor of defendant, in a sum exceeding by one half in amount that which he claims, as security for the payment of such damages as defendant may

recover against him, in case it should be decided that the attachment was wrongfully obtained. If a creditor know or suspect that a third person has in his possession property belonging to his debtor, or that he is indebted to him, he may make such a person a party to the suit, by having him cited, to declare on oath what property belonging to the defendant he has in his possession, or in what sum he is indebted to such defendant, even when the term of payment has not arrived.

After judgment, execution issues as in ordinary proceedings.

Of Property Exempt from Execution.

The sheriff cannot seize the linen and clothes belonging to the debtor or his wife, nor his bed, nor those of his family, nor his arms and military accoutrements, nor his tools and instruments necessary for the exercise of the trade or profession by which he gains a living, nor the rights of personal servitudes, of use and habitation, of usufruct to the estate of a minor child, nor the income of dotal property. Nor can he seize the implements and working cattle, nor the corn, fodder, hay, provisions and other supplies necessary for carrying on the supply of the plantation to which they are attached for the current year, and separately from the land to which they are attached.

Under a *fi. fa.* issued on a judgment with a privilege for rent, every thing on the premises may be seized, even the tools of a tradesman, beds, arms, &c.

The Homestead bill of 1852 was repealed in 1853.

Of Prescription,—Or the Statute of Limitation.

The actions of justices of the peace, and notaries, and persons performing their duties, as well as constables, for the fees and emoluments which are due to them in their official capacity; that of masters and instructors in the arts and sciences, for lessons which they give by the month; that of inn-keepers, and such others on account of lodging and boarding and board which they furnish; that of retailers of provisions and liquors; that of workmen, laborers, and servants for the payment of their wages; that for the payment of the freight of ships and other vessels, the wages of the officers, sailors, and others of the crew; that for the supply of wood and other things necessary for the construction, equipment,

and provisioning of ships and other vessels, *are prescribed by one year.*

The action for arrearage of rent charge, annuities and alimony, or the hire of movables or immovables ; that for the payment of money lent ; for the salaries of overseers, clerks, secretaries and of teachers of the sciences, for the lessons by the year or quarter ; that of physicians, surgeons and apothecaries, for visits, operations and medicines ; that of sheriffs, clerks, and attorneys for their fees and emoluments, *are prescribed by three years. Civil Code of Louisiana.*

Be it enacted &c. : That the accounts of retailers of provisions and liquors, and the accounts of all merchants, whether selling by the retail or wholesale, within this State, shall be prescribed by the lapse of *three years*, from the time the articles charged shall have been furnished to the purchaser ; provided, the above shall not apply to retail venders of ardent spirits in less quantities than a quart.

Be it further enacted, &c. : That the prescription of all other open accounts, the prescription of which is *ten years* under existing laws, *shall be prescribed in three years.*

Be it further enacted &c. : That all promissory notes whether the same be negotiable or otherwise, shall be prescribed in *five years.* (Acts. 1852.)

All judgments for money whether rendered in this State or out of it, are prescribed by the lapse of ten years, from the rendition of such judgment—unless some one interested in such judgment have it revived within that time, by having the defendant or his representatives duly cited before the court in which such judgment was originally obtained, and a new judgment rendered. (Acts. 1853.)

Residents and non-residents on the same footing as to prescription.

Of Husband and Wife.

The wife is bound to follow her husband wherever he chooses to establish his domicile.

Every marriage contracted in the State superinduces of right a partnership, or community of acquits and gains, if there be no stipulation to the contrary. The same principle applies to those who remove to this State during marriage, as to property acquired after such removal. Also to non-resident married persons as to property owned by them in this State. This partnership or community consists of the profits of all the effects of which the husband has the

administration or enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife, and of the estate they may acquire during the marriage, either by donation made jointly to them both, or by purchase, or in any other similar way, even although the purchase be in the name of one of the two, and not of both; because, in that case, the period of time when the purchase is made is alone attended to, and not the person who made the purchase. The husband is the head and master of the partnership or community of gains, he administers its effects, disposes of the revenues, and may alienate them by an encumbered title, without the consent and permission of his wife. At the dissolution of the partnership, or community, the partnership debts are first paid out of the partnership effects—the balance is divided into two equal portions between the husband and the wife, or if it is dissolved by death, between the surviving spouse and the heirs of the deceased partner.

Married persons may, by their marriage contract, modify the legal community as they think fit, either by agreeing that the portions shall be unequal, or by specifying the property belonging to either of them, of which the fruits shall enter into the partnership.

Married persons may stipulate that there shall be no partnership between them. In this case the wife preserves the entire administration of her movable and immovable property, and the free enjoyment of her revenues.

The property which belonged to the husband or wife before marriage, or which is acquired during marriage by donation or inheritance, remains the separate property of such original owner. The debts of both husband and wife, contracted before marriage, are chargeable only on their separate property.

The wife has a legal or tacit mortgage on the immovables, and a privilege on the movables of her husband, to wit:

1st. For the restitution of her dowry, as well as for the replacing of her dotal effects which she brought at the time of the marriage, and which were alienated by her husband, and this from the time of the celebration of the marriage.
2d. For the restitution or the replacing of her dotal effects which she acquired during the marriage—either by succession, or by donation, from the day such succession devolved to her or such donation began to have its effect. The privilege in that case cannot extend to immovables, nor can such mortgage affect the rights of creditors whose mortgage is prior to that of the wife.

The wife may, during the marriage, petition against the husband for a separation of property, whenever her dowry is in danger, owing to the mismanagement of her husband, or otherwise, or when the disorder of his affairs induces her to believe that his estate may not be sufficient to meet her rights and claims. Such separation of property must be petitioned for and ordered by a court of justice, after hearing all parties.

The wife who has obtained the separation of property must contribute in proportion to her fortune, and to that of her husband, both to the household expenses, and to those of the education of their children.

The wife cannot be surety for her husband in any case.

Estates of Deceased Persons.

Executors, administrators and curators cannot be compelled to pay over assets of the estates they administer within one year. They are required to close the estate at the end of twelve months, unless in a proper showing, the Judge allows an extension of time. If they refuse to place a creditor on the tableau for the full account of his claim, a suit may be instituted against them in their capacity of executor, &c., or an apposition may be filed by such creditor to the account when filed, and upon a proper showing the Judge will order the account to be amended so as to allow the creditor the amount of his demand—it then becomes the judgment of the court.

Privileged claims preserve the following order: 1st. Funeral expenses. 2nd. Law charges. 3d. Charges of whatever nature occasioned by the last sickness, concurrently among those to whom they are due. 4th. Wages of servants for the year past, and as much as is due for the current year. 5th. Supplies of provisions made to the debtor or his family, during the last six months, by retail dealers, such as bakers, butchers, grocers, and during the last year, by keepers of boarding houses and taverns. 6th. Salaries of clerks, secretaries and other persons of that kind. 7th. Dotal rights due to wives by their husbands. Also the sum of *one thousand dollars*, due the widow or minor children when left in necessitous circumstances.

Of Interest and Usury.

The legal rate of interest is five per cent, but parties may stipulate for any sum as high as eight per cent.

Notes and accounts bear five per cent. interest from maturity where no interest is stipulated, provided it is claimed by the suing creditor. The penalty for usurious contracts is a forfeiture of the entire interest. Usurious interest, when paid, may be recovered back any time within twelve months.

TEXAS

Of Suits for the Recovery of Money.

“No person shall be *imprisoned* for debt.”—State Constitution, Bill of Rights, Sec. 15.

The District Court has jurisdiction, both at law and equity, in all cases where the sum or matter in controversy amounts to one hundred dollars, exclusive of interest; and exercises appellate jurisdiction, and general control over all inferior tribunals. It has also jurisdiction of the accounts of executors, administrators, guardians, &c.

All process has to be returned to this Court five days before the first day of the term. If no defence is made, judgment may be obtained at once; where a defence is taken, it requires some months.

Justices have jurisdiction in cases of contract under one hundred dollars. Process must be returned to the Justices' Court one week before the hearing. No appeal lies from this Court, but a *certiorari* may be had, upon good cause shown, to remove the case to the District Court.

Of the Stay of Execution.

There is no stay of execution in the District Court unless by consent. In the Justices' Court it may be stayed three months.

Of Attachments.

Attachments may issue upon the party applying for the same, his agent or attorney, making an affidavit in writing, stating that the defendant is justly indebted to plaintiff, and the amount of the demand; also that the defendant is not a resident of the State, or that he is about to remove out of the State; or that he secretes himself, so that the ordinary process of law cannot be served on him; or that he is about to remove his property beyond the State, and that thereby the plaintiff will probably lose the debt, and that the attachment is not sued out for the purpose of injuring the defendant.

It is necessary that the plaintiff, his agent or attorney, shall, at the time of making such affidavit, give a bond with two or more good and sufficient sureties, payable to the defendant in at least double the amount sworn to be due; conditioned that plaintiff will prosecute his suit with effect, and pay such damages as shall be adjudged against him, for wrongfully suing out such attachment.

Any property may be attached except the separate property of married women, which is not liable for the husband's debts, and such property as is exempt from execution.

Of Property Exempt from Execution.

Section 22 of the Constitution provides, that "The Legislature shall have power to protect by law from forced sale a certain portion of the property of all heads of families. The homestead of a family not to exceed two hundred acres of land, (not included in a town or city,) or any town or city lot or lots in value not to exceed two thousand dollars shall not be subject to forced sale for any debts hereafter contracted; nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the Legislature may hereafter point out." The following is exempted by law:—All household and kitchen furniture; (provided it does not exceed in value two hundred dollars;) all implements of husbandry; (provided they shall not exceed fifty dollars in value;) all tools, apparatus, and books belonging to the trade or profession of any citizen; five milch cows; one yoke of work oxen, or one horse; twenty head of hogs, and one year's provisions. The homestead is exempted by the Constitution, and the balance by Law.

The Supreme Court have decided that the city lots are to be worth two thousand dollars, not including the improvements. No form of note could waive the right of exemption, for if the party saw proper to waive it, the wife might still claim it. As to the homestead, that is utterly out of the question. The Constitution settles it—its language is clear and explicit:—"Shall not be subject to forced sale for any debts hereafter contracted."

Proceedings against Decedents' Estates.

Every claim for money, against a testator or intestate, must be presented to the executor or administrator, within

twelve months after the original grant of letters testamentary or of administration; if not so presented, the payment thereof shall be postponed until the claims which have been presented within said twelve months, and allowed by the executor or administrator, and approved by the Chief Justice, or established by suit, shall have been first entirely paid.

No executor or administrator shall allow any claim for money against his testator or intestate, nor shall any Chief Justice approve of any such allowance, unless such claim is accompanied by an affidavit, in writing, that the claim is just, and that all legal offsets, payments and credits, known to affiant, have been allowed; which affidavit, if made out of the State, must be made before some Judge of a Court of Record having a Seal, and attested by the Seal of his Court. If any such claim is allowed (by the administrator), or approved (by the Chief Justice), without such affidavit, such allowance or approval is of no force or effect.

If an administrator or executor refuses to allow the claim, suit may be brought forthwith; and if the holder obtains judgment, it will be paid in due course of administration, as all other claims.

The following is a correct form of the affidavit to be made by holder of said claim:

The State of ———	}	Before me, A. B., Judge
County of ———	}	of the District Court,

or Circuit or Supreme, or County Court, it being a Court of Record, in and for said State, personally appeared C. D., who after having been sworn in due form of law, deposeth and saith, that the above note, (or account,) for the sum of _____ dollars, and _____ cents, against the estate of E. F., deceased, and hereto attached is just, and that all legal offsets, payments and credits, known to affiant, have been allowed.

(Signed) _____ C. D.

Sworn to and subscribed before me.

To certify which, I have hereunto set my hand, and caused the seal of the _____ Court to be affixed, it being a Court of Record, done at office, in the town or city of _____, in county of _____, and State of _____. This _____ day of _____, 18 ____.

A. B.

Judge of said Court.

The debts due from an estate are to be paid by the executor or administrator, in the following manner:

1st. Funeral expenses and expenses of last sickness.

2d. All expenses of administration, including the allowance that may be made to widow, and the expenses incurred in the preservation, safe keeping, and management of the estate.

3d. Debts secured by mortgage or lien, whether by judgment or execution, or otherwise, so far as the same can be paid out of the proceeds of the property subject to such mortgage or lien; and when more than one of such mortgages or liens, or any of them, exist upon the same property, the oldest shall be first paid.

4th. All other debts; and no preference is given to debts secured by mortgage, or having a lien by judgment, execution, or otherwise, further than regards the property subject to such mortgage or lien. When there is a deficiency of assets, debts of the fourth class are only to be paid *pro rata*, and no executor or administrator is allowed to pay any claims of the fourth class, whether the estate is solvent or insolvent, except with their *pro rata* amount of the funds of the estate that have come to hand.

It will be seen that the first three classes of claims against an estate are privileged, or preferred over the fourth; a holder of the fourth class cannot apply for payment under thirteen months from the date of letters of administration; when a claim is allowed by administrator and approved by Chief Justice, it is in law a judgment, on which, however, execution cannot issue.

Of the Statute of Limitations.

All actions of debt founded upon any contract in writing, must be commenced and sued within four years next after the course of such action or suit shall accrue. Judgments in any Court of Record within the State, where an execution hath not issued within twelve months after the rendition of the judgment, may be revived by *scire facias*, or an action of debt brought thereon within ten years next after the date of such judgment and not after. All actions founded upon any account, other than open accounts concerning the trade of merchandize between merchant and merchant, their factors and servants, must be commenced within two years next after the cause of such action shall have accrued. No demand against any person who may hereafter remove into

the State, incurred prior to such person's removal, shall be barred by the Statute of Limitations, until he shall have resided therein for the space of twelve months; provided the claim was not barred by the statute of the State from whence he came, at the time he left said State. When an action may appear to be barred by a law of limitations, no acknowledgment of the justice of the claim, made subsequent to the time it becomes due, shall be admitted in evidence to take the case out of the operation of the law, unless such acknowledgment be in writing and signed by the party to be charged thereby. The following is the Act of 1845, before the State Constitution went into effect:—"That all foreign judgments, decrees, and adjudications, upon which suits shall be brought in the Courts of this republic, should the same be of four years' standing and upwards, shall be forever barred and prescribed, unless sued on in sixty days from and after the passage of this act. Those under four, and over two years, unless sued on in six months, and those under two years unless sued on in one year."

A running account between merchant and merchant, &c., is an exception to the rule of two years' prescription, and it is the generally received opinion that it would take the grade of notes, bonds, &c., which would be four years; that question has not yet been before the Supreme Court, nor does the statute say what grade it shall take.

Of the Rights of Married Women.

All property, both real and personal, of the *husband*, owned and claimed by him before marriage, and all that acquired afterwards by gift, devise, or descent, as also the increase of all lands or slaves thus acquired, is the separate property of the husband. All property, both real and personal of the *wife*, owned or claimed by her before marriage, and all that acquired afterwards by gift, devise, or descent, as also the increase of all lands or slaves thus acquired, is the separate property of the wife. During the marriage, however, the husband is entitled to the sole management of all such property.

All property acquired by either husband or wife, during the marriage, except that which is acquired in the manner aforesaid, is to be deemed the common property of husband and wife; and during the coverture may be disposed of by the husband only; it shall be liable for the debts of the hus-

band, and for the debts of the wife, contracted during the marriage for necessities: and upon the dissolution of the marriage by death, the remainder of such common property goes to the survivor, if the deceased have no child or children; but if the deceased have a child or children, the survivor is entitled to one half of said property, and the other half passes to the child or children of the deceased.

All property, real or personal, owned or claimed by any married woman, or which may be owned or claimed at the time of marriage, by any woman, or which she may acquire by gift, devise, or descent, must be registered as hereinafter directed. Each woman, now married, or who may be hereafter married, may present to any officer authorized by law to probate deeds, or other instruments for record, a schedule, particularly describing all the property, real and personal, which she now owns and possesses, or which she may own and possess at the time of her marriage, and make acknowledgment before such officer, that the property described in the schedule is her separate property; and upon such acknowledgment it is the duty of the officer aforesaid, to give a certificate of the fact under his hand and seal of office; which certificate shall be sufficient evidence for the recorder of any county to register said schedule.

The registry of the wife's separate property, must be made in the counties in which it really may lie; and if there be personal property, then also in the county where the wife may reside; and in case of her removal to another county, the registry may also be made in the county to which she may so remove, within three months after such removal.

"The registry of any schedule of a wife's separate property, made in accordance with the foregoing provisions, is conclusive, as against all subsequent creditors of, and purchasers from, the husband."

The following is a correct form of the relinquishment of the separate property of a married woman:

The State of Texas,
Cherokee County.

}

Before me, —
Judge of — or —
Notary Public of —

County, personally appeared —, wife of —, parties to a certain deed or writing, bearing date on the — day of —, and hereto annexed, and having been examined by me privily, and apart from her husband, and having the same fully explained to her, she, the said —, acknowledged the same to be her act and deed, and declared that she had

willingly signed, sealed, and delivered the same, and that she wished not to retract it.

To certify which, I hereunto sign my name and affix my seal of office, this day of 18—.

Of Interest and Usury.

On all written contracts, ascertaining the sum due, when no specific premium or rate of interest is expressed, interest may be taken, recovered, and allowed, at the rate of eight per centum per annum, from and after the said sum is due and payable.

The parties to any written contract, may agree and stipulate for any premium or rate of interest, not exceeding twelve per cent. per annum, on the amount or value of the contract; and the same may be taken, recovered, and allowed.

All contracts, or instruments of writing whatsoever, which may, in any way, directly or indirectly, violate the foregoing provisions of this act, by stipulating for or allowing or receiving a greater premium or rate of interest than twelve per cent. per annum, for the loan, payment, or delivery of any money, goods, wares, merchandize, bonds, notes of hand, or any commodity, are void and of no effect for the whole premium or rate of interest only; but the principal sum of money, or the value of the goods, wares, merchandize, bonds, notes of hand, or commodity, may be received and recovered.

Judgments of the several Courts of the State bear interest at the rate of eight per cent. per annum, from and after the date of judgment, and the same may be recovered and allowed.

If the interest is over eight per cent. it must be expressed in the writing.

Of Factors or Consignees.

There is no statute in Texas in reference to this head. The common law applies to such cases.

ARKANSAS.

When a Debtor may be Imprisoned.

By an act of the General Assembly, of 3d of February, 1843, it is declared that "imprisonment, or restraint of the body, upon original, mesne, or final process, issuing out of any of the Courts of this State, or from any officer of any such Court, or from any magistrate, in any civil action whatever, shall not be allowed or permitted; nor shall any process, either original, mesne, or final, issue in any civil action from any of the Courts of this State, or from any officer of any of said Courts, or from any magistrate, whereby any person may be held to bail, or compelled to enter into bonds or recognizance for his appearance, or in any way restrained of his liberty, or imprisoned, except in the cases hereinafter specifically mentioned: *Provided, however*, that this act shall not extend to any case of *fraud* alleged by the plaintiff, and supported by his affidavit, and also the affidavit of some disinterested and creditable person, to the facts on which such allegation of fraud is founded." And it is further provided, by the second section of said act, "that the power of any Chancellor in this State, or of any Judge of the Circuit Court exercising chancery jurisdiction, or of any Court of Chancery in this State, to issue writs of *ne exeat*, or writs of *injunction*, with restraining orders to prevent the removal of property beyond the limits of this State, shall remain unimpaired and unaffected by any thing in this act contained; and such power shall exist and be exercised under the same circumstances, to the same extent, and upon the same showing as the same may now be exercised by such Chancellor, Judge, or Court, by virtue of any of the statutes of this State, or the rules governing English Chancery jurisdiction, which now exist and are in force in this State.

Obtaining Goods under False Pretences.

It is declared, at page 345 of the Digest, "that every person who, with intent to defraud, or cheat another, shall

designedly, by color of any false token, or writing, or by any other false pretence, obtain the signature of any person to any written instrument, or obtain from any person any money, personal property, right in action, or other valuable thing, or effects whatever, upon conviction thereof, shall be deemed guilty of larceny, and punished accordingly."

By the second section of said act, it is declared, that "if any false token, by which any money, signature, property, right in action, or other valuable thing, shall be obtained as specified in the last preceding section, be a promissory note, bill of exchange, check, or evidence of debt, purporting to have been made or issued by or under the authority of any banking company or corporation not in existence, the person convicted of such cheat, shall be punished as in case of larceny."

And by the fourth section it is declared, that "every person who shall falsely represent or personate another, and in such assumed character shall receive any goods, chose in action, or property, or effects of any description, belonging, or intended to be delivered to the individual so personated, he shall be deemed guilty of larceny."

Of Suits for the Recovery of Money.

When the demand exceeds one hundred dollars, suit is brought in the Circuit Court of the proper county where the defendant resides, or may be found; but no person who is a resident of this State, and who has not absconded from his usual place of abode, shall be arrested on a capias in any county other than that of which he is a resident; and suits brought by attachment against the property of any person, shall be brought in the county in which such property may be found.

Judgments and decrees of the Supreme Court shall, upon the filing of a transcript thereof in the Circuit Court of the county in which the suit originated, on which judgment or decree is entered, be a lien on the real estate of the person against whom such judgment or decree is rendered, situate in such county, from the filing of such transcript.

Judgments and decrees rendered in the Circuit Court, shall be a lien on the real estate of the person against whom they are rendered, situate in the county for which the Court is held.

Liens shall commence on the day of the rendition of the

judgment, and shall continue for three years, subject to be revived by *scire facias*.

The plaintiff may recover judgment at the first term of the Court to which suit is brought, provided process be served on the defendant thirty days before Court. If process be served fifteen days before court, the defendant is required to appear and plead to the action, otherwise judgment will go by default.

Justices of the Peace have exclusive original jurisdiction in all matters of contract, except in actions of covenant, when the sum in controversy is of one hundred dollars and under. A judgment may be obtained before a Justice in five days from the time suit is brought, and either party may appeal to the Circuit Court of the proper county upon entering into recognizance as required by law; *Provided* the appeal be taken within thirty days from the day of trial. The judgment of a Justice is not a lien upon real estate, but the judgment may be made a lien by filing a transcript in the office of the Clerk of the Circuit Court, which cannot, however, be done until the Justice issues execution, and the Constable returns no personal property to be found.

NOTE.—The Circuit Courts are held every six months, and the Justice's Courts are held once a month.

Of the Stay of Execution.

No stay of execution is allowed but by the voluntary consent of the party recovering judgment, except upon demands within the jurisdiction of a Justice of the Peace, and which may be stayed in the manner hereinafter provided, and for the following periods of time, to be calculated from the date of the judgment: First. If the judgment be for any sum not exceeding ten dollars, exclusive of costs, one month. Second. If it be for any sum above thirty dollars, exclusive of costs, two months. Third. If it be for any sum above thirty dollars, and not exceeding fifty dollars, exclusive of costs, three months. Fourth. If it be for any sum above fifty dollars, and not exceeding sixty dollars, exclusive of costs, four months. Fifth. If it be for any sum above sixty dollars, exclusive of costs, six months.

Of the Execution.

An execution may be issued upon a judgment at any time within a year and a day from the rendition thereof, and

regularly continued within a year and a day; otherwise the judgment must be *revived* by scire facias before execution. Personal property is first usually resorted to for the satisfaction of an execution; but the defendant may select what property, real or personal, shall be first sold to satisfy the same; and if he give to the officer a list of the property so selected sufficient to satisfy such execution, the officer shall levy on such property, and no other, if, in his opinion, it is sufficient to satisfy such execution, and if not, then upon such additional property as shall be sufficient.

The following described property shall be liable to be seized and sold under any execution, upon any judgment, order or decree, of a court of record: First. All goods and chattels not herein exempted. Second. All improvements on the public lands of the United States, except such as the defendant may reside upon, or cultivate at the time of issuing the execution. Third. All slaves, and the rights and shares in the stock of any bank, insurance company, or other corporation. Fourth. Any current gold and silver coin, which shall be returned as so much money collected without exposing the same to sale. Fifth. Any bill or other evidence of debt issued by any moneyed corporation of this State, or any other State, belonging to any person against whom an execution shall be issued, at the time such writ shall be delivered to the officer to be executed, or at any time thereafter. Sixth. All real estate, whether patented or not, whereof the defendant, or any person for his use, was seized in law or equity, on the day of rendition of the judgment, order or decree, whereon execution issued, or at any time thereafter, subject, however, to a homestead exemption of one hundred and sixty acres of land, or one town lot, with its improvements, without reference to value. The following property shall be exempt from execution when owned by any person other than the head of a family: First. The wearing apparel of such person, except watches. Second. The necessary tools and implements of trade of a mechanic whilst carrying on his trade. And the following property, when owned by a married man with a family, shall also be exempted from execution: First. One horse, mule, or yoke of oxen; one cow and calf; one plough, one axe, and one set of plough gears, if the person against whom any execution may be issued is a farmer. Second. The spinning wheels and cards; one loom and apparatus necessary for manufacturing cloth in a private family. Third. All the spun yarn, thread and cloth manufactured for

family use. Fourth. Any quantity of hemp, cotton, and wool, not exceeding twenty-five pounds. Fifth. All wearing apparel of the family; two beds, with the usual bedding, and such other household and kitchen furniture as may be necessary for the family, agreeably to an inventory thereof, to be returned on oath with the execution by the officer whose duty it may be to levy the same. Sixth. The necessary tool and implements of trade of any mechanic while carrying on his trade. Seventh. All arms and military equipments required by law to be kept. Eighth. All such provisions as may be on hand for family use.

No execution shall be a lien on the property in any slaves, goods, or chattels, or the rights or shares in any stock, or any real estate to which the lien of the judgment, order, or decree, does not extend or has been determined, but from the time such writ shall be delivered to the officer in the proper county to be executed. And every officer to whom any execution may be delivered, shall endorse thereon the hour, day of the month, and year, when it came to hand; and if two or more writs of execution come to the hands of such officer the same day, that which he first received shall have priority over the others, and be executed accordingly.

Every unexpired lease of land shall be subject to execution, and sold as real estate; but shall not be subject to sale under any execution issued by a Justice of the Peace, neither shall an improvement on public lands be sold under an execution issued by a Justice of the Peace.

Of Attachment.

In all cases of absent or absconding debtors, who may have property, real or personal, in this State, the creditor may proceed against the same in the following manner, to wit: The creditor shall file in the office of the Clerk of the Circuit Court of the county where the property may be, his declaration, petition, or statement, in writing, against his debtor, containing a true statement of the nature of his demand. The creditor shall, at the time of filing the declaration of his claim, also file an affidavit of himself, or some other person for him, stating that the defendant in the declaration mentioned, is justly indebted to such plaintiff in a sum exceeding one hundred dollars, the amount of which demand shall be stated in such affidavit, and also that the defendant is not a resident of this State, or that he is about to remove out of this State, or that he is about to remove

his goods and effects out of this State, or that he so secretes himself that the ordinary process of law cannot be served on him.

The affidavit may be taken before any Judge, or Justice of the Peace within this State, and the attachment may be issued by any Clerk with whom such affidavit may be filed, in the same manner as if such affidavit had been taken before such Clerk. The creditor shall likewise, at the time of filing his declaration, or statement of his claim, file with such Clerk a bond to the defendant, with sufficient security, to be approved by the Clerk, in double the amount of his claim as sworn to; conditioned that he will prove his debt or demand, on a trial at law, or that he will pay such damages as shall be adjudged against him.

If any person shall have in possession, or under his care, any goods, moneys, or effects, belonging to the defendant, or is indebted to such defendant in any sum of money, though the same may not then be due, such person may be *garnisheed*, and his liability *fixed* for the amount of such property or indebtedness.

The defendant may, at the time of the service of the writ of attachment, or at any time before judgment shall be rendered against him, file (if before the return of the writ with the officer executing the same, if after, with the Clerk,) a bond with sufficient security, to be approved of by the officer taking the same, in double the amount of the plaintiff's demand as sworn to; conditioned that he will appear to and answer the plaintiff's demand at such time and place as by law he should, and that he will pay and abide the judgment of the Court, or that his security will do the same for him: upon the filing of which bond, the attachment shall be *released*, and the suit proceed as other suits at law.

If no such bond be given, and the defendant appear by himself, or counsel, he may plead to and defend such action as other suits at law, but the property attached shall remain in the hands of the officer entitled to the possession thereof until the same shall be disposed of according to law.

When property is attached in the hands of a garnishee, it may be released by the garnisher filing a bond, (if before the return of the writ with the officer serving the same; if in term time, with the Clerk of the Court, with sufficient security, to be approved of by the officer taking the same, in double the estimated value of such property,) conditioned that if the plaintiff shall recover judgment at law against the defendant, and the property attached shall be adjudged to

be the property of the defendant, the same shall be delivered to the proper officer as the Court may direct.

If the defendant fail to appear on or before the third day of the term, or sooner, if the Court shall adjourn before that time, and plead, or otherwise answer to the plaintiff's action, the Court shall order that a publication be made containing a statement of the nature and amount of the plaintiff's demand, and notifying the defendant that an attachment has been issued against his estate, and that unless he shall appear, by himself or attorney, on or before the third day of the next term, stating the time the Court will meet, that judgment will be entered against him, and his estate sold to satisfy the same, which notice shall be inserted for two weeks successively in some newspaper printed in this State, within such time as the Court shall prescribe, and it shall be the duty of the plaintiff to cause the same to be inserted accordingly, and the expense thereof allowed by the Court, may be recovered as other costs. When any writ of attachment shall be served, the plaintiff may, during the time to which said writ is returned, exhibit and file allegations and interrogatories, in writing, upon which he may be desirous to obtain the answer of any garnishee touching the lands, tenements, goods, chattels, moneys, credits, or effects of the defendant, and the value thereof in his possession, custody, charge, or from him due and owing to the defendant at the time of the service of such writ, or at any time after, or which may thereafter become due.

It shall be the duty of each and every garnishee to exhibit and file under his oath, on or before the third day of the next term, full, direct, and true answers to all and singular the allegations and interrogatories as filed by the plaintiff. If any garnishee shall refuse or neglect to exhibit and file his answers within the time prescribed by law, to the allegations and interrogatories exhibited and filed by the plaintiff, the Court shall, if judgment be entered against the defendant, enter judgment in favor of the plaintiff against such garnishee for the amount of the plaintiff's debt or demand, so ascertained as aforesaid, together with the damages and costs of suit.

When the defendant shall fail to appear and answer the plaintiff's action, as required by law, the plaintiff may cause such default to be entered as in other cases of default, and if the plaintiff's demand is liquidated, and reduced to writing, the Court shall cause the Clerk to calculate the principal and

interest really due thereon, and enter judgment therefor accordingly.

If the demand of the plaintiff be unliquidated, a jury shall be forthwith summoned and empannelled, who shall assess the amount due from the defendant to the plaintiff, and judgment shall be entered therefor as in other cases.

No execution shall be awarded against any defendant or garnishee, nor shall any of the defendant's goods or property be sold, unless the plaintiff shall enter into bond to the defendant, with sufficient security, in double the amount of his judgment, to be approved by the Court, conditioned, that if the defendant in such attachment shall, within three years, by himself or attorney, appear in the proper Court and disprove or avoid the debt or damages recovered against him, or any part thereof, he, the said plaintiff, will pay the said defendant the full amount that shall appear to have been recovered by, and not justly due and owing to him, together with such damages as shall be assessed by a jury, or the Court.

Attachments before a Justice of the Peace for debts or demands within the jurisdiction of a Justice, are substantially attended with the same requirements, incidents and results, as attachments in the Circuit Court. The principal difference is, that in attachments before a Justice of the Peace, the plaintiff is not required to file a bond previous to the commencement of the suit, as in attachments in the Circuit Court.

All property liable to be seized in execution may be attached, and also the indebtedness of a garnishee.

Proceedings against Decedents' Estates.

Executors and administrators are allowed three years to settle the estate of their testator, or intestate. They cannot be compelled to pay debts until the expiration of one year, and cannot be compelled to make distribution of assets until after the expiration of two years. Creditors are notified within thirty days after letters testamentary, or of administration, are granted, by advertisement at the Court House door, for six weeks, and if ordered by the Probate Court, shall publish in some newspaper printed in this State, to the effect that letters testamentary, or of administration, have been granted, &c., and requiring all persons having claims against the estate to exhibit them to the executor or administrator, properly authenticated, within one year after the

date of such letters, or they may be precluded from any benefit in the estate, and that if such claims be not exhibited within two years from the date of such letters, they shall be forever barred and precluded from any benefit from such estate.

Any person may exhibit his or her claim against any estate, as follows, to wit: If the demand be founded on a judgment, note, bond, or written contract, by delivering to the executor, or administrator, a copy of such instrument, with the assignments and credits thereon, if any, exhibiting the original; and if the demand be founded on an account, by delivering a copy thereof, setting forth each item distinctly, and the credits thereon, if any. And the claimant shall also append to his demand an affidavit which may be in the following form, to wit:

STATE OF ARKANSAS, ss.

I, A. B., do solemnly swear, that nothing has been paid or delivered towards the satisfaction of the above demand, except what is credited thereon, and that the sum of dollars above demanded is justly due.

A. B.

Sworn to before me, an acting Justice of the Peace within the State aforesaid, on the day of A. D., 1854.
—————, J. P.

Before any executor or administrator shall pay, or allow any such debt demanded as due from the deceased, the person claiming such debt shall make an affidavit as aforesaid: And in case of a debt due a corporation, the Cashier or Treasurer shall make such affidavit.

When an affidavit shall be required to be made by an officer of a corporation, executor, administrator, or assignee, it shall be sufficient to state in such affidavit, "that he has made diligent inquiry and examination, and that he does verily believe that nothing has been paid, except the amount credited, and that the sum demanded is justly due."

Any Judge, Justice of the Peace, or Notary Public of this State, shall have power to take the affidavit required by law to authenticate any claim against a deceased person; and an affidavit taken out of the State, if the official character of the person before whom such affidavit may have been made shall appear from the certificate of a Clerk of any Court of Record, under his official seal, shall be received.

The order of the payment of debts is as follows: 1st. Funeral expenses. 2d. Expenses of the last sickness, wages of servants, and demands for medicines, and medical attendance during the last sickness. 3d. Judgments rendered against the deceased in his life-time, and which are liens on the lands of deceased, if he died possessed of any, otherwise to be regarded as debts due by contract. 4th. All demands without regard to quality, which shall be exhibited to the executor or administrator, properly authenticated, within one year after the first granting of letters on the estate. 5th. All such demands as may be exhibited as aforesaid, after the end of one year, and within two years after the first letters granted on the estate; and all demands not exhibited to the executor or administrator before the end of two years from the granting of letters, shall be forever barred.

Real estate is treated as assets for the payment of debts, and may be sold for that purpose, if necessary.

Of the Rights of Married Women.

By the Married Woman's Law of December 8, 1846, it is declared, that any married woman may become seized and possessed of any property, real or personal, by descent, bequest, demise, gift, or distribution, in her own right and name, and as of her own property: *Provided*, the same does not come from the husband after coverture.

By the second section, it is declared, that hereafter, when any woman possessed of a property in slaves shall marry, her property in such slaves, and the natural increase shall continue to her, notwithstanding her coverture, and she shall have, hold, and possess the same as her separate property, exempt from any liability for the debts or contracts of her husband.

By the third section, it is declared, that when any woman during coverture shall become entitled to, or possessed of slaves by conveyance, gift, inheritance or distribution, such slaves, together with the natural increase, shall enure and belong to the wife in like manner as is above provided as to slaves which she may possess at the time of marriage.

It is however provided by section seventh, that before any married woman can avail herself of the provisions of this act, she and her husband shall make out a schedule of the property derived through her, which schedule shall be filed in the Recorder's office of the county within which the property is, as well as in which they live.

Of the Statute of Limitations.

All actions of debt founded upon any contract or liability (not in writing); all actions for arrearages of rent (not reserved by some instrument in writing); and all actions of account, assumpsit, or on the case founded on any contract or liability, express or implied, not in writing, must be brought within three years after the cause of action shall accrue. Actions on promissory notes, and other instruments of writing not under seal, must be commenced within five years after the cause of action shall accrue, and not after. And actions on writings obligatory, bonds, writings under seal, and judgments and decrees, must be commenced within ten years after the cause of action shall accrue, and not afterwards.

Actions on the official bonds of Sheriffs and Coroners, must be commenced within four years, and actions on the bonds of executors and administrators must be commenced within eight years after the cause of action accrues. The usual saving to persons under twenty-one years of age, or insane, or a married woman, or imprisoned beyond seas.

Of Interest and Usury.

Six per cent. per annum is the legal interest when no other rate of interest is agreed upon, but the parties may agree in writing for the payment of interest not exceeding *ten* per cent. per annum on money due, or to become due upon any contract, whether under seal or not.

Interest is a legal incident to every judgment.

A contract for more than the legal rate of interest is *absolutely void*—therefore, all bonds, bills, notes, &c., whereupon or whereby there shall be reserved, taken, or secured, or agreed to be taken or reserved, any greater sum, or greater value for the loan or forbearance of any money, goods, or things in action, than is prescribed by law, *shall be void*.

A Widow's Dower.

A widow shall be endowed of the third part of all the lands whereof her husband was seized of an estate of inheritance, at any time during the marriage, unless the same shall have been relinquished in legal form. A widow shall be entitled, as a part of her dower, to the one-third part of the

slaves whereof the husband died seized or possessed, during her natural life, and one-third part of the personal estate, in her own right absolutely.

If a husband dies leaving a widow and no children, such widow shall be endowed of one-half of the real estate, and also one-half of the slaves of which such husband died seized, and one-half of the personal estate absolutely and in her own right.

Note.—The dower of the widow in the realty, slaves and personal property is taken irrespective of the solvency or insolvency of the estate.

It has, however, been decided by the Supreme Court, that the widow's dower does not extend to *choses* in action, but extends to every other description of property.

The conveyance of any real estate by any married woman, or the relinquishment of dower in any of her husband's real estate, shall be authenticated and the title passed, by such married woman voluntarily appearing before the proper court or officer, and in the absence of her husband, declaring that she had, of her own free will, executed the deed or instrument in question, or that she had signed and sealed the relinquishment of dower for the purposes therein contained and set forth without compulsion or under influence of her husband.

TENNESSEE.

Of the Collection of Debts.

There is no imprisonment for debt in Tennessee. Suits are brought for the collection of debts either before Justices of the Peace, or in the Circuit Court.

A single Justice of the Peace has jurisdiction "over all debts and demands due on any specialty, note or agreement, signed by the party to be charged therewith, on which judgment will not sound in damages, and over all settled accounts signed by the parties, and on all endorsements of negotiable paper, when the demand and notice are expressly waived in the endorsement," to the amount of \$500. (Act of 1850.) And over "all unsettled accounts," when the amount claimed does not exceed \$100.

Suits are begun before Justices by warrant, returnable immediately, and stand for trial at once, without good cause shown for continuance. Appeals lie in all civil causes from Justices to the Circuit Court.

Judgments before Justices are stayable eight months. Execution is then issuable after two days, returnable in thirty days thereafter.

In the Circuit Court, appeals from Justices, if taken five days or more before the term, are triable at the first term; if less than five days, they do not stand for trial till the second term.

All suits for the collection of debts, beyond the jurisdiction of Justices, must be instituted in the Circuit Courts. The summons must be served on the defendant five days before the *appearance* term of the Court; and the cause stands for trial at the next term after the appearance term. The Circuit Courts are held every four months, at the seat of Justice in each county. There is no stay of judgment obtained in the Circuit Court. Executions are issuable immediately after the term, and are returnable to the following term of the Court.

Of Attachments.

Attachments may be had:

1. Where a debtor "hath removed out of the county privately."
2. Where he "is removing out of the county privately."
3. When he "so absconds and conceals himself that the ordinary process of the law cannot be served on him."
4. Where a debtor is a non-resident of the State.

Attachments lie for money due and owing, and must be predicated on the oath of the creditor, his agent or attorney, of the existence of the debt and the non-residence, absconding, or other circumstance, bringing the case within the operation of the attachment laws. Attachments must be levied on personal property, if to be found sufficient to satisfy the debt; if not, then real property may be levied on. The exemption laws do not apply in favor of non-resident or absconding debtors.

Attachments are issuable by single Justices of the Peace, to the extent of their jurisdiction over debts.

When an attachment is levied on the property of a non-resident of the State, the proceedings must be stayed from six to twelve months, and publication in a newspaper made.

Of the Exemption Laws.

The following property is exempt from execution:—A homestead of the value of \$500, on condition of a filing and registration of a declaration of intention to avail one's self of the law. This condition has so far rendered the law a nullity in Tennessee.

The following personal property is exempt without any requisite course of action to secure its exemption, save to demand its release, if levied on by an officer. It is a misdemeanor in the officer to persist after demand. The exemption may be waived by the owner, either verbally or in writing, no particular form of waiver being required:

1 cow, or cow and calf; 1 bedstead, and bed containing 25 pounds feathers, 2 sheets, 2 blankets, and 1 counterpane; $\frac{1}{2}$ doz. knives and forks, six plates, one dish, one basin; 1 pot, one dutch oven; 1 spinning wheel, 1 pair of cotton cards; 1 axe; 10 barrels corn; 300 pounds of pork or bacon.

If defendant be the head of a family :

1 plow ; 1 hoe ; 1 set of gear for plowing ; 1 iron wedge ; 1 farm horse, mule, or yoke of oxen ; 1 ox cart, ring, and staple, and 1 log chain ; 1 other bed and *furniture* of 25 pounds of feathers ; 1 other cow and calf ; 5 sheep ; ten hogs ; all fowls and poultry ; 6 chairs ; 1 bible ; 1 hymn book ; 1 loom and gear ; 300 pounds more of pork ; 10 barrels more of corn ; 500 bundles fodder ; 500 bundles oats ; 10 bushels of wheat ; 1 stack of hay ; 1 man's saddle ; 1 lady's saddle and *bridle*.

And if the family consists of six or more persons :

1 more feather bed, bedstead and clothes.

And if the family consists of more than six children :

1 more feather bed for every additional three children, and 1 other cow and calf for every three.

And if the defendant be a mechanic, one set of his necessary mechanical tools.

Of the Statute of Limitations.

Non-resident creditors are upon the same footing as residents, except in relation to estates of deceased persons. Non-residents are allowed three years for bringing suits to enforce collections against estates of deceased persons ; resident creditors are allowed but two.

Covenants, or instruments under seal, to pay money are not barred by the statute of limitations ; but presumption of payment arises from lapse of time—usually sixteen years.

All instruments not under seal, and all contracts for the payment of money, are barred in six years, where the form of action is *debt* ; where the form of action is *assumpsit*, they are barred in three years. But a promise to pay, either express or implied, takes the case out of the statute.

Separate Property of Married Women.

Personal property may be settled by deed or will on a married woman, to her separate use ; and all her personal property not reduced into possession of the husband, may be settled on the wife by the intervention of a Court of Chancery. Personal property, not so settled upon her, and reduced into possession of the husband, is the property of the husband absolutely. By the act of 1850, the interest the husband acquires in the real estate of the wife, is not subject to the liabilities of the husband.

Of the Usury Laws.

The only legal interest between parties contracting in Tennessee is six per cent.; but a contract made in another State, is governed by the laws of that State, although enforced in the Tennessee Courts.

If usurious contract is made, the principal and legal interest alone are recoverable; and if usury is paid, the usurious excess can be recovered back by suit instituted either by the debtor or any of his creditors. The taking of usury is also a misdemeanor, punishable by fine, or fine and imprisonment.

Commission Sales on Account of Non-residents.

There are no laws in Tennessee on this subject; and the whole subject is regulated by contract, or custom.

KENTUCKY.

When a Debtor may be Arrested.

A debtor may be arrested and imprisoned upon the creditor, his agent or attorney, making affidavit, stating the amount of his claim; that it is a just debt; that the debtor is about to depart from this State with intent to defraud his creditors; or that he has, with intent to defraud his creditors, concealed or removed from this State, his property, or so much thereof that process of Court after judgment cannot be executed. The creditor can be released by giving bail to appear and answer to the charge, and to comply with the judgment of the Court; or by oath of insolvency, making out a schedule of his property, and giving it up to satisfy the demand. No one can be arrested until bond, with security in double the amount of the debt, has been given.

Of Attachments.

Attachments in civil causes issue upon the creditor, his agent or attorney, giving bond with security, and making affidavit containing either or all of the following allegations:

1st. That the defendant, or several defendants, who, or some one of whom, is a foreign corporation, or a non-resident of this State; or

2d. Who has been absent from the State four months; or

3d. Has departed from this State with intent to defraud his creditors; or

4th. Has left the county of his residence to avoid the service of a summons; or

5th. So conceals himself that a summons cannot be served upon him; or

6th. Is about to remove his property, or a material part thereof, out of this State, not leaving enough therein to satisfy the plaintiff's claim; or

7th. Has sold, conveyed, or otherwise disposed of his property, or suffered, or permitted it to be done, with the fraudulent intent to cheat, hinder, or delay his creditors; or

8th. Is about to sell, convey, or otherwise dispose of his property, with such intent.

The affidavit must also state the nature of the plaintiff's claim, and that it is just.

By the laws of Kentucky a judgment in uncontested cases may be obtained, and the money collected in seven months.

Of the Exemption Laws.

All property belonging to the defendant, or fraudulently disposed of by him, is subject to the attachment, except about \$100 worth of household and kitchen furniture, which by law is exempt from execution and attachment.

The agreement of the debtor waiving right of exemption is specifically enforced. In such cases the proper endorsement will be made on the execution. No regular form is necessary.

Of the Statute of Limitations.

Actions for the recovery of real property to be brought within fifteen years from time cause of action accrued. Disabilities of infants and married women are saved to extend the time to thirty years; not longer.

Suits to be brought on decrees and judgments within fifteen years.

Suits on bonds of officers, administrators, executors, and injunction bonds to be brought within ten years. Actions against sureties, trespass to real property, bills of exchange, contracts, accounts, &c., to be brought within five years.

Actions for slander, seduction, merchants' accounts, to be brought within one year; except on accounts between merchant and merchant, and then within five years.

Of the Jurisdiction of Justices.

Justices of the Peace have jurisdiction in all civil cases where the sum in controversy does not exceed fifty dollars, exclusive of interest and costs. Appeal lies in all cases from the decision of a Justice. If *supersedas* is desired, the appeal to be taken in twenty days; if not, it may be taken within sixty days.

Of the Rights of Married Women.

By the laws of Kentucky, property of any kind may be settled upon a married woman, free from the debts and liabilities of the husband, and free from his control or management. Property thus settled by deed, or devised by last will and testament, she can hold, with or without the intervention of a trustee. She can only dispose of this separate estate in the way pointed out by the instrument conveying it to her. A married woman's separate estate is liable for the payment of *her debts*.

Of Interest and Usury.

The legal rate of interest in this State is six per cent. Contracts made in another State where the laws of that State allow a higher rate of interest than six per cent., will be enforced in the Courts of Kentucky. It will, however, to enforce such a contract, have to appear that the law of the State in which the contract was made, allows a higher rate; otherwise it will be presumed that the rate of interest is the same as that allowed by the laws of Kentucky.

Of Factor or Consignee.

There are no laws in Kentucky regulating the sales of resident merchants, on commission, on account of non-residents. Whatever contract the parties make, is to control the matter about which they contracted, and will be enforced by the Courts.

OHIO.

When a Debtor may be Arrested.

A debtor may be arrested in certain cases, both in suit before Justices of the Peace, and in the Common Pleas—and the arrest may be either *before* judgment or *after* judgment. For the sake of convenience, it is proposed to consider this subject under four different divisions, viz.: *First*, Of the arrest before a Justice and before judgment; *Second*, Of the arrest before a Justice after judgment; *Third*, Of the arrest before judgment in the Common Pleas; and *Fourth*, Of the arrest after judgment in the Common Pleas.

I. An order for the arrest of the defendant in a civil action before judgment, must be made by a Justice of the Peace, when there is filed in his office, an affidavit of the plaintiff, his agent or attorney, stating the nature and amount of his claim, that it is just, and establishing one or more of the following particulars:

1. That the defendant has removed or begun to remove any of his property out of the county, with intent to defraud his creditors.

2. That the defendant has begun to convert his property, or any part thereof, into money, for the purpose of defrauding his creditors.

3. That he has property or rights in action, which he fraudulently conceals.

4. That he has assigned, removed, or disposed of, or has begun to assign, remove, or dispose of his property or any part thereof, with intent to defraud his creditors.

5. That he fraudulently contracted the debt, or incurred the obligation for which suit is about to be brought.

The affidavit must also state the *facts* claimed to justify the belief in one or more of the above particulars. The order of arrest may be made to accompany the summons, or may be issued at any time afterwards before judgment. Before the order is issued, the plaintiff must give bond and security, to pay all damages the defendant may sustain, if the order be wrongfully obtained. The defendant when

arrested, may be discharged from custody by depositing money with the Justice, or giving bond and security for the payment of any judgment that may be rendered against him.

II. When a *judgment has been rendered* against a defendant in custody as above, or when after a judgment has been rendered against him, there is filed in the office of the Justice an affidavit of the plaintiff, his agent or attorney, stating the amount of the judgment and establishing one or more of the *five* particulars above stated, the Justice must issue an execution accompanied with an order for the arrest of the defendant. If the defendant does not pay the debt, and no property sufficient to satisfy the same can be found in the township, the defendant must be arrested and committed to jail until discharged by law. Before the order issues, bond and security must be given as required above.

III. In the Common Pleas, an order for the arrest of the defendant may be made at any time, on or after commencing of suit and *before judgment*, when there is filed in the Clerk's office an affidavit of the plaintiff, his agent or attorney, stating the nature of the plaintiff's claim, that it is just, and the amount thereof, and establishing one or more of the following particulars:

1. That the defendant has removed or begun to remove any of his property out of the jurisdiction of the Court, with intent to defraud his creditors.

2. That he has begun to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors.

3. That he has property or rights in action which he fraudulently conceals.

4. That he has assigned, removed or disposed of, or has begun to dispose of his property, or a part thereof, with intent to defraud his creditors.

5. That he fraudulently contracted the debt or incurred the obligation, for which suit is about to be or has been brought. The affidavit must also contain a statement of the facts claimed, to justify the belief in the existence of one or more of the above particulars. Bond and security must be given by the plaintiff before the order issues. The defendant when arrested must be committed to jail and kept in custody until discharged by law, unless he deposit with the Sheriff or in Court, the amount of money mentioned in the order of arrest, to abide the final judgment of the Court, or give bail to render himself amenable to the process of the Court, when he may be discharged from custody.

IV. An execution *against the person of the debtor*, may be issued upon any judgment for the payment of money, in the Common Pleas.

1. When the judgment debtor has removed, or begun to remove any of his property out of the jurisdiction of the Court, with intent to prevent the collection of the money due on the judgment.

2. When he has property, rights in action, evidences of debt, or some interest or stock in some corporation or company, which he fraudulently conceals with the like intent.

3. When he has assigned or disposed of all or any part of his property, or rights in action, or has converted the same into money, with intent to defraud his creditors, or with intent to prevent such property from being taken in execution.

4. When he fraudulently contracted the debt or incurred the obligation, upon which the judgment was rendered.

5. When he was arrested on an order before judgment, and has not been discharged as an insolvent debtor, or the order has not been set aside as improperly made.

When the defendant has been arrested before judgment, and has not been discharged, execution may issue against his person of course. In all other cases it can be issued only when allowed by the Supreme Court, the District Court, the Court of Common Pleas or Probate Court or any Judge of either, upon being satisfied by the affidavit of the creditor or his attorney, and such other evidence as may be presented of the existence of one or more of the five particulars above mentioned.

A Justice of the Peace may issue an execution against the person of a judgment debtor, upon being satisfied of the existence of one or more of the same particulars, by the like affidavit and evidence.

The debtor when arrested must be committed to jail until he pays the judgment, or gives up property sufficient to satisfy the same, or is discharged by law.

Of Suits for the Recovery of Money.

Justices of the Peace have exclusive jurisdiction of all sums less than one hundred dollars, and the Court of *Common Pleas* of all sums over three hundred dollars—the two Courts having concurrent jurisdiction of all sums over one and less than three hundred dollars. The *District* and *Supreme* Courts have no original jurisdiction in collection cases.

Suits before a Justice are commenced by filing with the

magistrate a bill of particulars of the plaintiff's demand, upon which a summons issues, returnable not more than twelve days after its date, and which must be served at least three days before the time of appearance. On the return day, a judgment by default may be taken if no defence is made. Judgments may thus sometimes be obtained in three days. Either party may appeal from the final judgment of a Justice of the Peace to the Court of Common Pleas, by giving bond and security for the payment of any judgment which may be recovered against him on the appeal. No appeal is allowed, however, on judgments by confession, or in cases tried before a jury where neither party claims over twenty dollars.

In the *Court of Common Pleas* suits are commenced by filing in the Clerk's office a petition setting forth the plaintiff's cause of action. A summons is thereupon issued, returnable (if no time is specified by statute) on the second Monday after its date; or, if sent to another county, on the third or fourth Monday, at the option of the plaintiff. The defendant is required to answer or demur on or before the third Saturday, and the plaintiff to reply (if necessary) on or before the fifth Saturday after the return day of the summons. If the defendant fail to answer or demur as above, judgment may be taken against him by default immediately, if Court be in session—if not, at the next term thereafter, unless the default be opened and leave given to answer upon affidavit by a meritorious defence. A debtor may at any time during term confess a judgment personally in open Court, or judgment may be taken against him upon a warrant of attorney. In collection cases, where no defence is set up, if default for answer occurs during term, a judgment may be obtained five or six weeks after commencement of suit. In this State, by the adoption of the late "Code of Civil Procedure," "the distinction between actions at law and suits in equity, and the forms of all such actions and suits are abolished"—one form of action, called a "civil action" only being used.

An appeal lies from the Common Pleas to the District Court, upon giving bond with security. When the judgment is for the payment of money only, and the appellate Court renders substantially the same judgment as the Court below, and there was no reasonable or proper ground for the appeal, five per cent damages will be added to the judgment—and if the appeal was vexatious and for delay merely, ten per cent.

Of Attachment Before a Justice.

The plaintiff may have an order of attachment against the goods, chattels, stocks, interest in stocks, rights, credits, moneys and effects of his debtor, (not exempt by law from the payment of his debts,) in a civil action, for the recovery of money at the time of, or at any time after, the commencement of his suit, when there is filed with the Justice an affidavit of the plaintiff, his agent or attorney, showing the nature of his claim, that it is just, the amount he believes he ought to recover, and the existence of one or more of the following particulars :

1. That the defendant is a foreign corporation, or a non-resident of the county; or
2. Has absconded with intent to defraud his creditors; or
3. Has left the county of his residence to avoid service of a summons; or
4. So conceals himself that a summons cannot be served upon him; or
5. Is about to remove his property or a part thereof out of the county, with intent to defraud his creditors; or
6. Is about to convert his property or a part thereof into money, for the purpose of placing it beyond the reach of his creditors; or
7. Has property or rights in action which he conceals; or
8. Has assigned, removed, or disposed of, or is about to assign, remove, or dispose of his property or a part thereof with intent to defraud his creditors; or
9. Fraudulently contracted the debt or incurred the obligation, for which suit is about to be or has been brought.

Before the attachment is issued, the plaintiff must give bond and security for the payment of all damages sustained by the defendant, by reason thereof, if the order be wrongfully obtained.

The property attached or the proceeds thereof enures to the exclusive benefit of the attaching creditor to the extent of his claim. The liens of different attachments upon the same property, have priority, in the order in which they were served. The property of the debtor in the hands of third persons (called garnishees) may be attached in like manner.

Of Attachment in the Court of Common Pleas.

An order of attachment will be issued by the Clerk of the Court of Common Pleas, in a civil action for the recovery

of money, at the commencement of the suit or at any time before judgment, when there is filed in his office an affidavit by the plaintiff, his agent or attorney, showing the nature of the plaintiff's claim, that it is just, the amount he believes he ought to recover, and the existence of some one of the following grounds of attachment :

1. That the defendant is a foreign corporation or a non-resident of the State ; or

2. Has absconded with the intent to defraud his creditors ; or

3. Has left the county of his residence to avoid the service of a summons ; or

4. So conceals himself that a summons cannot be served upon him ; or

5. Is about to remove his property, or a part thereof, out of the jurisdiction of the Court, with intent to defraud his creditors ; or

6. Is about to convert his property or a part thereof into money, for the purpose of placing of it beyond the reach of his creditors ; or

7. Has property or rights in action which he conceals ; or

8. Has assigned, removed, or disposed of, or is about to dispose of his property, or a part thereof with the intent to defraud his creditors ; or

9. Fraudulently contracted the debt or incurred the obligation, for which suit is about to be or has been brought.

The attachment issues against the goods and chattels, lands and tenements, stocks, or interest in stocks, rights, credits, money and effects of the debtor, not exempt by law, from the payment of his debts, and enures to the exclusive benefit of the attaching creditor, to the extent of his demand. Property in the hands of a garnishee may also be attached in like manner. Before the order of attachment issues, the plaintiff must give bond and security, to pay all damages the defendant may sustain by reason of the attachment, if the order be wrongfully obtained.

Of Attachment before Debt is Due.

A creditor may bring an action on his claim *before it is due*, and have an attachment against the property of his debtor, in the following cases :

1. When a debtor has sold, conveyed, or otherwise disposed of his property, with the fraudulent intent to cheat

or defraud his creditors, or to hinder or delay them in the collection of their debt; or

2. Is about to make such sale, conveyance, or disposition of his property, with such fraudulent intent; or

3. Is about to remove his property or a material part thereof, with the intent, or to the effect, of cheating or defrauding his creditors, or of hindering or delaying them in the collection of their debts.

Attachments in the above cases are granted by the Court in which the action is brought, or a Judge thereof, on an affidavit made by the plaintiff, his agent or attorney, showing the nature and amount of his claim, that it is just, when the same will become due, and the existence of some one or more of the foregoing grounds of attachment. If the Court or Judge refuse the order of attachment, the action will be dismissed without prejudice. Before the order is issued, the plaintiff must give bond and security as in other cases. The plaintiff cannot, however, obtain judgment on his claim until it becomes due. The property attached will be held to satisfy the judgment when recovered.

Proceedings in Aid of Execution.

When a judgment creditor has not personal or real property subject to execution, sufficient to satisfy the judgment, any equitable interest he may have in real estate as mortgagor, mortgagee or otherwise, or any interest he may have in any banking, turnpike, bridge or other joint stock company, or his interest in any money contracts, claims or choses in action, due or to become due to him, or any judgment or decree; or any money, goods or effects which he may have in the possession of any person, body politic or corporate, may be subjected to the payment of the judgment either by an action or in the manner hereafter prescribed.

When an execution issued against the property of the debtor is returned unsatisfied; or after the issuing of an execution, upon proof by the affidavit of the creditor, or otherwise to the satisfaction of the Judge, that the debtor has property which he unjustly refuses to apply to the satisfaction of the judgment, the creditor is entitled to an order from the Probate Judge or Judge of the Court of Common Pleas, requiring the debtor to appear at some time and place therein specified, to answer under oath concerning his property, and he may not refuse to answer any question put

to him on such examination, although the answer would tend to convict him of a fraud. After the issuing of an execution, any person who is indebted to the judgment debtor, may pay off the execution against him, and the Sheriff's receipt is a discharge of his debt to the judgment debtor. In like manner property of the judgment debtor in the hands of any third person, may be reached, and witnesses may be required to attend and testify concerning the property of the debtor in any of the above cases. The Judge may order any property or effects of the debtor discovered by this proceeding to be applied to the satisfaction of the judgment.

Stay of Execution.

No stay of execution is allowed on judgments in the Court of Common Pleas or District Court.

On judgments rendered by a Justice of the Peace, by giving security for the payment of the same, the judgment debtor may have execution stayed as follows:

1. On any sum under five dollars, stay sixty days.
2. Over five and under twenty dollars, ninety days.
3. Over twenty and under fifty dollars, one hundred and fifty days.
4. On fifty dollars and upwards, two hundred and forty days.

Judgment Lien, Execution, &c.

A judgment in the Common Pleas or District Court, is a lien on the real estate of the debtor in the county where it is entered, from the first day of the term at which it is rendered, except judgments by confession and judgments in suits commenced during the term at which the judgment is taken, which become a lien from the day of their rendition. This lien continues for five years; but to preserve the priority of such lien over subsequent judgments, a levy must be made within one year. The lands and tenements, goods and chattels, of the debtor, not exempt by law, are liable to execution; but the personalty must be exhausted, before the realty can be taken.

An execution from the Common Pleas must be returned within sixty days after its date.

A Justice's judgment is not a lien upon the real estate of the debtor, nor can an execution thereon be levied upon his lands; but the creditor may file a transcript of his judgment

in the office of the Clerk of the Court of Common Pleas, and if filed during term, it becomes a lien on the debtor's lands, from the day it is filed; if filed in vacation, the lien will take effect on the first day of the next term thereafter.

An execution from a Justice must be returned within thirty days after its date.

Personal property may be sold on execution to the highest bidder without appraisement. Real estate must be appraised before sold, and must sell for two-thirds its appraisement.

Of Laws Regulating Interest.

The legal rate of interest in Ohio, where no other is specified, is six per cent. Parties are, however, allowed to contract, (which should be in writing,) for any rate of interest not exceeding ten per cent. On a contract for illegal interest, the creditor can only recover his principal and six per cent interest.

Usurious interest paid may be set off against the principal.

Banks taking usurious interest forfeit the debt; other than this there is no penalty for receiving illegal interest.

There is no statutory provision making any distinction between citizens of this State and non-residents, as relates to contracts for interest. Contracts made with citizens of Ohio, in other States, agreeably to the laws of those States, will be enforced by the Courts of Ohio, on the common law principle that a contract is to be governed by the law of the place where made, unless otherwise provided.

Of the Exemption Laws.

The laws of Ohio exempt from levy and sale on execution in favor of "each person who has a family," certain specific articles, including clothing, one stove, one cow, two hogs, six sheep, beds and bedding, provisions, &c., and tools and implements of debtor necessary for carrying on his business to amount of fifty dollars.

A drayman's horse, harness and dray, are exempt. An agriculturist may select as "tools and implements," one work horse, or yoke of oxen, with necessary gearing.

Practising physicians are authorized to hold exempt one horse, saddle and bridle; and also medicines or books to the amount of \$50 in value.

Life Insurance money, where policy is taken for benefit of wife and children, is also exempt.

Debtors not having a "homestead," are entitled, in addition to the foregoing, to hold exempt mechanics' tools or a team and farming utensils to an amount not exceeding three hundred dollars in value.

Homestead.—Since the 4th of July, 1850, the family homestead of each head of a family has been exempt from sale on execution to an amount not exceeding five hundred dollars in value. If the homestead is worth more than five hundred dollars and is not divisible without manifest injury to the property, the creditor is entitled to receive in lieu of the proceeds of the sale of the homestead, the amount over and above forty dollars annually, which shall be adjudged by appraisers selected for the purpose as a fair and reasonable rent for the same, until the debt, costs, and interest are paid.

The seventh section of the Homestead Act provides that "The provisions of this act shall not extend to any judgment or decree rendered on any contract made before the taking effect of this act, or judgment or decree rendered on any note or mortgage executed by the debtor and his wife, nor any claim for work and labor less than one hundred dollars, nor to impair the lien by mortgage or otherwise of the vendor for the purchase money of the homestead in question, nor of any mechanic or other person under any statute of this State, for materials furnished or labor performed in the erection of the dwelling house thereon, nor from the payment of taxes due thereon."

A note executed by husband and wife avoids the benefit of the Homestead Act. But no form of note, except it come within the savings of the seventh section, will avail the creditor any thing.

The interest of the husband in the estate of the wife can not be taken for his debts during the life of the wife, or of any heir of her body.

[NOTE.—For other regulations as to property of wife, see article entitled "*Rights of Married Women.*"]

Of the Limitation of Actions.

An action for the recovery of the possession of lands, tenements or hereditaments, can only be brought within *twenty-one* years after the cause of such action shall have accrued.

If a person should be under disability, that is, be at the time the right or title shall first descend or accrue, within the age of twenty-one years, a married woman, insane, or imprisoned, he is entitled to the further time of *ten* years after such disability is removed.

An action for the forcible entry and detention, or forcible detention only, of any real property, must be brought within *two* years.

An action upon a specialty, or any agreement, contract or promise in writing, must be brought within *fifteen* years.

An action upon a contract express or implied, or upon a liability created by statute, (other than a forfeiture or penalty,) within *six* years.

An action for trespass on real property; for taking, detaining, or injuring personal property, or for its specific recovery; for an injury to the rights of the plaintiff, and not hereafter enumerated; and an action for relief on the ground of fraud, (in which case, however, the cause of action shall not be deemed to have accrued until the discovery of the fraud,) all such actions must be brought within *four* years.

An action for libel, slander, assault, battery, malicious prosecution, or false imprisonment, must be brought within *one* year,—also for a statutory penalty or forfeiture, unless the statute itself shall provide otherwise.

An action upon official or other bond must ordinarily be brought within *ten* years.

An action for relief not otherwise provided for, may be brought within *ten* years.

Any person under the disabilities mentioned above, shall be entitled to the respective times above limited after the removal of such disability.

An action is deemed commenced on service of summons; or, in case service by publication is proper, action is to be considered commenced at date of first regular publication.

If when a cause of action accrues *against* a person, he be out of the State, or have absconded or concealed himself, the period limited for the commencement of such action shall not begin to run during such absence or concealment; or, if after such cause of action accrues he departs from the State, absconds or conceals himself, the time of such absence or concealment shall not be computed as part of the time within which such action must be brought.

[NOTE.—It will be observed that this statute operates only against defendants for the protection of claimants. There is no statutory provision in Ohio extending any

limitation in favor of non-resident plaintiffs. The *diligent* creditor is the only one peculiarly favored by the laws of Ohio.]

When the cause of action has arisen in another State or country, between non-residents of this State, the limitation as to actions ruling in such State or country becomes the rule in this State.

Part payment of principal or interest of a claim, or acknowledgment, or promise to pay the same, in writing, will bring such claim out of the statute.

Of the Rights of Married Women.

The rights of married women in this State remain as at Common Law, except so far as changed by a statute which provides :

1. That the interest of a married man in the real estate of his wife, owned by her at marriage, or which she has received by gift, devise, or inheritance during coverture, or which has been purchased with her separate means, cannot be taken for the debts of her husband during her life, or of any heir of her body.

2. All conveyances and encumbrances of the husband's interest in his wife's realty, are void during her own or the life of any heir of her body, unless she join in the conveyance.

3. No interest of the husband in any *chose in action*, demand, legacy, or bequest of his wife, is liable for his debts, unless he has reduced the same to possession, so as to be the owner thereof in his marital rights.

4. All articles of goods and household furniture belonging to the wife at marriage, or purchased with her separate means, are in like manner exempt from the debts of her husband.

Where an action concerns the separate property of the wife, she may prosecute and defend without her husband, but must do so by her *next friend*.

MICHIGAN.

When a Debtor may be Arrested.

Imprisonment for debt is abolished. Rev. St. (1846) 604. But the plaintiff who shall have commenced a suit or obtained a judgment against a defendant may have a warrant to arrest him on proper application to the officer before whom the suit is commenced or judgment obtained, showing

1. That the defendant is about to remove any of his property out of the jurisdiction of the Court in which the suit is brought or judgment obtained, with intent to defraud his creditors. Or

2. That the defendant has property or rights in action which he fraudulently conceals, or that he has rights in action or some interest in any public or corporate stock, money, or evidence of debt which he unjustly refuses to apply to the payment of the debt. Or

3. That he has assigned, removed, or disposed of, or is about to assign or dispose of, any of his property with the intent to defraud his creditors. Or

4. That the defendant fraudulently contracted the debt or incurred the obligation respecting which the suit is brought.

On such application, a warrant issues by virtue of which the defendant is brought before the officer, where he may controvert the facts and circumstances on which the warrant issues, by his own affidavit or other testimony.

If the officer, after hearing the proofs of the parties, is satisfied that the allegations of the plaintiff are substantiated, he shall commit the defendant to the County Jail until he gives security for, or pays the debt, or is otherwise discharged according to law.

Of the Jurisdiction of the Courts.

In this State, suits on demands due may be brought before a Justice of the Peace, when the amount does not exceed three hundred dollars. If it exceeds that amount, the action must be brought in the Circuit Court.

Judgments may be and are usually obtained within three months after the commencement of suit.

Of the Execution.

Executions may issue at any time within two years after the rendition of judgment, or after the issuing of a former execution, which shall have been returned unsatisfied in whole, or in part, R. S. (1846.)

Of the Stay of Execution.

Executions may be stayed as follows: Three months from the commencement of suit, when the judgment, exclusive of costs, does not exceed twenty-five dollars. Six months, if it exceeds twenty-five, and is under fifty dollars. Over fifty dollars, ten months from the commencement of suit.

Of Attachments.

Attachments issue upon the affidavit of the plaintiff, or of some one in his behalf. The affidavit must specify the amount due as near as may be, and show to the satisfaction of the Court by facts and circumstances within the knowledge of the person making the affidavit,

1. That the defendant has assigned, disposed of, or concealed, or is about to assign, dispose of, or conceal, any of his property with intent to defraud his creditors.

2. That he is about to remove any of his property from the county in which such application is made, or from the county where the defendant resides, with the like intent.

3. That he fraudulently contracted the debt.

4. That the defendant has absconded to the injury of his creditors, or does not reside in this State, and has not resided therein for one month immediately preceding the time of making the application.

Any property belonging to the defendant may be attached excepting such as is exempt by law from execution, as will be specified hereafter.

Of the Exemption Laws.

Personal property to the amount of five hundred dollars is exempt from sale on any execution issued for the collec-

tion of any debt contracted since the adoption of the new constitution.

1. To each householder, all household goods, furniture, and utensils, not exceeding in value two hundred and fifty dollars.

2. The tools, implements, materials, stock, apparatus, team, vehicle, horses, harness, or other things to enable any person to carry on the profession, trade, occupation, or business in which he is wholly or principally engaged, not exceeding in value two hundred and fifty dollars.

Besides these things the statute exempts :

1. All spinning wheels, weaving looms, with the apparatus, and stoves put up or kept for use in any dwelling-house.

2. A seat, pew, or slip, occupied by such person or family in any house or place of public worship.

3. All cemeteries, tombs, and rights of burial, while in use as repositories of the dead.

4. All arms and accoutrements required by law to be kept by any person. All wearing apparel of any person or family.

5. The library and school books of every individual and family, not exceeding one hundred and fifty dollars, and all family pictures.

6. To each householder, ten sheep with their fleeces, and the yarn or cloth manufactured from the same ; two cows, five swine, and provisions and fuel for the comfortable subsistence of such householder and family for six months.

There is no method by which the debtor can waive his right to avail himself of these exemption laws, except by an absolute sale of the property, or by turning the same out on the execution, or neglecting to pursue the remedy which the law gives him when such property is taken. The officer who holds the execution has no authority whatever to levy upon property which the law exempts ; and he is a trespasser if he does so, unless he has the express assent of the debtor himself.

The statute also exempts to householders a homestead of not exceeding forty acres of land, and the dwelling-house thereon, and the appurtenances to be selected by the owner, and not included in any town plat, city, or village ; or instead thereof, at the option of the owner, any lot in any city, village, or recorded town plat, and the dwelling-house thereon, and appurtenances not exceeding in value fifteen hundred dollars.

When a levy is made upon the lands of a householder, whose homestead has not been selected, he may notify the officer of what he regards as his homestead within the limits prescribed, and that portion shall not be subject to sale upon the execution.

Statute of Limitations.

Actions for the recovery of a debt due, must be brought within six years next after the cause of action shall accrue, unless the contract be under seal, in which case the action must be brought within ten years.

If any person, entitled to bring an action of this nature, shall, at the time the cause of action accrues, be within the age of twenty-one years, or a married woman, insane, imprisoned in the State's Prison, or absent from the United States, such person may bring the action within six years next after the disability is removed.

If, at the time when any cause of action shall accrue against any person, he shall be out of the State, the action may be commenced within six years next after such person shall return to the State; and if, after the cause of action shall accrue, the defendant shall be absent from and reside out of the State, the time of his absence shall not be taken as any part of the time limited for the commencement of the action.

In the case of mutual accounts, the action accrues at the time of the last item.

No acknowledgment or promise can continue the debt or contract so as to take the case out of the provision of the statute, unless such acknowledgment or promise be in writing. A payment takes the case out of the statute, but an endorsement made by the creditor is not sufficient proof of the payment.

Civil Jurisdiction of Justices of the Peace.

A Justice of the Peace has jurisdiction of all actions founded upon contract, when the amount claimed does not exceed three hundred dollars.

Actions commenced in such Courts, have to be brought before some Justice in the township or city where

1. The plaintiffs or any of them reside. Or
2. Where the defendants or any of them reside. Or
3. Before some Justice of another township or city in

the same county next adjoining the residence of the plaintiff or defendant, or one of the plaintiffs or defendants.

If the plaintiffs or defendants be non-residents of the county, then the action may be brought before any Justice of the township or city where the plaintiffs or defendants may happen to be.

An appeal lies from a Justices' Court in all cases where final judgment is rendered.

Of the Rights of Married Women.

The property of a married woman, acquired before or after marriage, is to all intents and purposes the property of the wife, and is not liable for the husband's debts. It is liable, however, for her debts, contracted before marriage. R. S. 340.

Of Interest and Usury.

The legal rate of interest is fixed at seven per cent. It is lawful for the parties to stipulate in writing for the payment of any rate of interest not exceeding ten per cent. If more than this be taken or contracted for, the contract is not thereby rendered void, but the excess over legal interest cannot be collected.

This statute applies to residents as well as non-residents, when the contract is made in this State.

INDIANA.

Of the Remedy to Recover Debts, and herein of When a Debtor may be Arrested.

Actions brought for the recovery of any debt, or for damages only, can be commenced by summons, (which must be served ten days before the commencement of the term,) or by issuing of a *capias ad respondendum*. An order for special bail shall not issue in any case until the plaintiff, his agent, or attorney, shall make and file with the Clerk of the Court where such suit is instituted, his affidavit specifying the plaintiff's right to recover an existing debt, or damages from the defendant, and also stating that he believes the defendant is about to leave the State, taking with him property subject to execution, or money, or effects which should be applied to the payment of the plaintiff's debt or damages, with intent to defraud plaintiff. No *capias ad respondendum* shall be delivered to any officer to be executed, until an order for special bail has been obtained from the Court, or the Clerk, and endorsed on the writ.

Jurisdiction of Justices of the Peace.

Justices of the Peace have jurisdiction to try and determine suits founded on contract or tort, when the debt or damage claimed, or the value of the property sought to be recovered, does not exceed one hundred dollars; but the defendant may confess judgment for any sum not exceeding two hundred dollars. But no Justice has jurisdiction in any action of slander, for malicious prosecution, or breach of marriage contract, nor in any action wherein the title to land comes in question, or the Justice be related by blood or marriage to either party. Any party may appeal from the judgment of a Justice of the Peace, to the Court of Common Pleas of the County, or the Circuit Court, within thirty days from the rendition thereof; and when there are two or

more plaintiffs or defendants, one or more of such plaintiffs or defendants may appeal without joining the others in such appeal. Appeals may be authorized by the Circuit or Common Plea Court, after the expiration of thirty days, when the party seeking the appeal has been prevented from taking the same by circumstances not under his control.

Of Attachments.

The real and personal property of a debtor, an inhabitant of the State, may be attached whenever the defendant, or one of several defendants, is a foreign corporation, or a non-resident of the State; or is secretly leaving, or has left the State with intent to defraud his creditors; or so conceals himself that a summons cannot be served upon him; or is removing or about to remove his property subject to execution, or a material part thereof, out of the State, not leaving therein enough to satisfy the plaintiff's claim; or has sold, conveyed, or otherwise disposed of his property subject to execution; or suffered, or permitted it to be sold with the fraudulent intent to cheat, hinder, or delay his creditors; or is about to sell, convey, or otherwise dispose of his property subject to execution, with such intent aforesaid.

No writ of attachment shall issue until the plaintiff, or some person in his behalf, shall make an affidavit, showing the nature of the plaintiff's claim, that it is just, the amount which he believes the plaintiff ought to recover, and also that there exists in the action some one of the grounds for an attachment above enumerated. Nor shall any writ of attachment issue against an absent debtor while his wife and family remain settled in the county where his usual place of residence may have been prior to his absence, unless he continue absent from the State more than one year; except an attempt be made to conceal his absence, or unless the debtor be secretly removing his property to avoid the payment of his debts. If the wife or family of the debtor shall refuse, or be unable to give an account of the cause of his absence, or the place where he may be found, or shall give a false account of either, such refusal, inability, or false account shall be deemed an attempt to conceal his absence.

Of the Stay of Execution.

When judgment has been rendered against any person for the recovery of money, or sale of property, he may, by pro-

curing one or more sufficient freehold sureties to enter into a recognizance, acknowledging themselves bail for the defendant for the payment of the judgment, together with the interest and costs accrued, and to accrue, have a stay of execution from the time of the judgment, as follows: If the sum for which the judgment was rendered, inclusive of costs, do not exceed six dollars, for thirty days; if such sum and costs exceed six dollars, and do not exceed twelve dollars, sixty days; if such sum and costs exceed twelve dollars, and do not exceed twenty dollars, ninety days; if such sum and costs exceed twenty dollars, and do not exceed forty dollars, one hundred and twenty days; if such sum and costs exceed forty dollars, and do not exceed one hundred dollars, one hundred and fifty days; if such sum and costs exceed one hundred dollars, one hundred and eighty days.

Of the Statute of Limitations.

The following actions shall be commenced within six years after the cause of action has accrued, and not afterwards:

- 1st. On accounts, and contracts not in writing.
- 2d. For use, rents, and profits of real property.
- 3d. For injuries to property, damages for any detention thereof, and for recovering the possession of personal property.
- 4th. For relief against frauds.

And the following actions shall be commenced within the periods herein prescribed, after the cause of action has accrued, and not afterwards:

- 1st. For injuries to person or character, and for a forfeiture or penalty given by statute—within two years.

2d. All actions against a sheriff, or other public officer, or against such officer and his sureties, on a public bond growing out of a liability incurred by doing an act in an official capacity, or by the omission of an official duty—within three years. But an action may be brought against the officer, or his legal representatives, for money collected in an official capacity, and not paid over, at any time within six years.

3d. For the recovery of real property sold on execution, bought by the execution debtor, his heirs, or any person claiming under him, by title acquired after the date of the judgment—within ten years after the sale.

4th. For the recovery of real property sold by executors, administrators, guardians, or commissioners of a court, upon a judgment specially directing the sale of property sought

to be recovered, brought by a party to the judgment, his heirs, or any person claiming a title under a party acquired after the date of the judgment—within five years after the sale is confirmed.

5th. Upon contracts in writing, judgments of a Court of Record, and for the recovery of the possession of real estate—within twenty years.

All actions not limited by any other statute, shall be brought within fifteen years.

In an action brought to recover a balance due upon a mutual, open and current account between the parties, the cause of action shall be deemed to have accrued from the date of the last item proved in the account on either side. A party to any action may plead or reply a set off or payment to the amount of any cause of action, or defence, notwithstanding such set off or payment is barred by the statute.

Any person being under legal disabilities when the cause of action accrues, may bring his action within two years after the disability is removed. The time during which the defendant is a non-resident of the State, or absent on public business, shall not be computed in any of the periods of limitation.

If any person entitled to bring, or liable to any action, shall die before the expiration of the time limited for the action, the cause of action shall survive to or against his representatives, and may be brought at any time after the expiration of the time limited, within eighteen months after the death of such person.

If, after the commencement of an action, the plaintiff fail therein from any cause except negligence in the prosecution, or the action abate, or be defeated by the death of a party, or judgment be arrested, or reversed on appeal, a new action may be brought within five years after such determination, and be deemed a continuation of the first action.

If any person liable to an action shall conceal the fact from the knowledge of the persons entitled thereto, the action may be commenced at any time within the period of limitation, after the discovery of the cause of action.

No acknowledgment or promise shall be evidence of a new or continuing contract, whereby to take the case out of the operation of this chapter, unless the same be contained in some writing signed by the party to be charged thereby.

The following decisions of the Supreme Court of Indiana, are believed to possess sufficient interest to justify their insertion in this place :

The statute of limitations forms no part of the contract; it affects the remedy only, and that statute governs which happens to be in force when the suit is brought. (Winston vs. McCormick, 1 Carter's Indiana Reports, p. 56.)

The statute of limitations, in an action against an agent or factor for not accounting, does not begin to run until a demand has been made. (Judah vs. Brandon, 5 Blackford, p. 506.)

In cases of fraud, the statute of limitations does not begin until the fraud is discovered. (Raymond et al. vs. Simonson, 4 Blackford, 77.)

At the foot of an account containing several items, there was the following acknowledgment; "I acknowledge the above account to be just. Thomas Neighbors." Held that this acknowledgment took the case out of the statute.

An acknowledgment of a debt made by one partner after the dissolution of the partnership, is not sufficient to take the case out of the statute of limitations as to the other partners. (Yandel et al. vs. Lefavour et al., 2 Blf., 371.)

Of the Exemption or Homestead Laws.

An amount of property, real and personal, not exceeding in value three hundred dollars, owned by any resident householder, shall not be liable to sale on execution, or any other final process from a court, for any debt growing out of, or founded upon a contract, express or implied, since the fourth day of July, 1852. Labor, mechanics' liens, and liens for the purchase money of real estate, excepted from the provision of the act. The property for exemption may be selected by the debtor from his general effects, either real or personal property, as he may elect.

To ascertain the value of the property claimed to be exempt, the plaintiff, or his attorney, may choose an appraiser, and the debtor one, and these two, if necessary, may select the third. And in case either party fail to select an appraiser, one is chosen by the officer. The appraisers shall be disinterested householders of the neighborhood. Such appraisers shall proceed forthwith to make a schedule of the real and personal property selected by the debtor, which, verified by affidavit, must form part of the return. If the debtor select real and personal property exceeding in value three hundred dollars, he may pay the excess in sixty days, or enough to satisfy the execution; but if he fail to do so, the officer shall sell the same as other lands are sold on

execution, and pay to the debtor so much of the proceeds as, with the value of the personal property selected by him, amounts to three hundred dollars. In all cases in which real property is sought to be exempted from sale on execution, if said real property is susceptible of division by metes and bounds, without material injury thereto, it shall be so divided as to exempt the principal dwelling house, or homestead of the debtor.

A debtor cannot, by giving a note in any form whatever, waive his right to avail himself of the exemption laws of this State. He may waive the law in relation to the valuation and appraisement, but he cannot waive the stay or exemption laws, in any form that is binding.

Of the Rights of Married Women.

The real and personal estate of the wife, acquired either before or after marriage, is not liable for the debts of her husband, but is absolutely her own separate property, as if she were unmarried. But if the personal property be reduced to possession by the husband during coverture, it vests absolutely in him, subject only to debts contracted by her before marriage. Tenancies by courtesy and in dower are abolished. At the death of the husband, one third of his real estate descends to his wife, in fee simple, free from all demands of creditors; except where the real estate exceeds in value ten thousand dollars, the widow shall have one-fourth only; and when it exceeds twenty thousand dollars, one fifth only, as against creditors. If she marry again, holding such real estate, she cannot, either with or without the assent of her husband, alienate the same; but at her death, it descends to the children of the husband from whom it was derived, except she have a child or children by such second or subsequent husband, then to all of her children in equal shares. If a husband or wife die intestate, leaving no child, and the whole amount of property, real and personal, does not exceed one thousand dollars, the whole shall go to such widow or widower. If the husband's estate does not exceed in value three hundred dollars, it descends to the widow without administration. The widow is entitled to one half the personal property of the husband, if there be but one child, and one-third if there be more than one.

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Of Interest and Usury.

Interest upon the loan or forbearance of money, goods, or things in action, shall be at the rate of six dollars per year upon one hundred dollars, and no greater rate of interest shall be taken, directly or indirectly; but it may be taken yearly, or for any shorter period, in advance, if so expressly agreed. Interest on a judgment or decree for money, shall be from the date of signing, until the same be satisfied.

On money due on any instrument in writing, or on settlement of account, from the day the balance shall have been agreed upon; on money received to the use of another, and retained without the owner's consent, express or implied, from the receipt thereof; and on money loaned, or due and withheld by unreasonable delay of payment, interest shall be allowed.

If interest be paid or received at a higher rate than by law allowed, the payor, or his personal representative, may recover such interest, with ten per centum damages thereon, by suit, if commenced within one year after payment thereof.

A non-resident cannot make a valid contract with a resident of this State for a higher rate of interest than is allowed by law to be enforced here.

Of Consignees or Factors.

There are no statutes in this State in reference to this head. Their transactions are governed by the common law.

ILLINOIS.

When a Debtor may be Imprisoned.

In Illinois there is no imprisonment for debt strictly speaking. A debtor may be imprisoned for withholding his property from execution, or for any fraudulent act by which he prevents the operation of the law for the collection of debts.

Obtaining Goods under False Pretences.

The statute provides, that "If any person by false representations of his own respectability, wealth or mercantile correspondence and connexions, shall obtain a credit thereby, and defraud any person or persons of money, goods, chattels, or valuable thing; or if any person shall cause or procure others to report falsely of his honesty, wealth or mercantile character, and by thus imposing upon any person or persons, obtain credit, and thereby fraudulently get into possession of goods, wares or merchandise, or any valuable thing; every such offender shall be deemed a swindler, and on conviction shall be sentenced to return the property so fraudulently obtained, if it can be found, and shall be fined not exceeding one thousand dollars, and imprisoned not exceeding six months, with other provisions of similar import.

Of Suits for the Recovery of Money.

Demands by note, book account or contract, either express or implied, which do not exceed one hundred dollars, are collected in the Justice of the Peace Court. The Circuit Court has jurisdiction of larger sums. Executors and administrators, when *plaintiffs*, may maintain an action before a Justice of the Peace, where the demand does not exceed one hundred dollars. Suits *against* executors or administrators can be maintained before Justices of the Peace only, when the demand does not exceed twenty dollars.

The *County Court* is mainly a Court of *Probate*. Judg-

ment may be obtained before Justices of the Peace within five days from date of summons. Judgments in the Circuit Court may be obtained at the first term after service of process; provided service be had ten days before the first day of the term. Various matters of course may arise to work a continuance of causes in any of the above Courts, from term to term. Judgments before Justices of the Peace are no lien upon any kind of property, and only become a lien upon goods and chattels from the time the execution upon the same is placed in the hands of an officer; in no case are they a lien upon real estate until certified to the Circuit Court, which cannot be done until execution thereon issued is returned unsatisfied. Judgments in the Circuit Court are a lien upon real estate from and after the last day of the term at which they are obtained, for the period of seven years; provided that execution be issued upon said judgment at any time within one year.

Appeals may be had from any of the above mentioned Courts.

Of the Stay of Execution.

Upon a judgment before a Justice of the Peace, execution shall not issue until the expiration of twenty days, unless the party, his agent or attorney, shall file an affidavit with the Justice, setting forth that there is danger of the demands' being lost unless execution be issued immediately; when it shall issue immediately, but no sale can be had in less than twenty days from the date of the judgment. Executions from a Justice of the Peace are returnable within seventy days from their date.

Executions upon judgments in the Circuit Court may issue at once, and are returnable within ninety days from their date.

Any interest, either legal or equitable, that a man has, may be seized and sold upon execution.

Of Attachments.

Attachments can be had only when the creditor, his agent or attorney, shall file an affidavit in the office of the Clerk of the Circuit Court, or with a Justice of the Peace, if the demand be less than one hundred dollars, setting forth that the defendant or debtor is indebted to such creditor, stating the nature and amount of such indebtedness, as near as may

be, and that such debtor has departed, or is about to depart from the State, with the intention of having his effects removed from the State; or is about to remove his property from the State, to the injury of such creditor; or that such debtor conceals himself, or stands in defiance of an officer, so that process cannot be served upon him, or is not a resident of the State; and in no other cases.

Before such attachment can be had, a bond indemnifying against costs and damages, must be given by such creditor, or his agent or attorney.

The Circuit Court will issue attachment in any case, as above mentioned, where the demand is not less than twenty dollars, and Justices of the Peace in cases where the demand does not exceed one hundred dollars.

Judgments in attachment may be obtained at the same term in the Circuit Court, or on the same day before a Justice of the Peace, and all come in for an equal share of the property attached. Goods, chattels, rights and credits, of every description, in the hands of others, are liable to garnishee processes in a suit of attachment, should the property attached be insufficient to pay the demand.

Of the Exemption Laws.

A man's homestead to the value of one thousand dollars—provided he lives on it—is exempt from execution for any demands or causes of action accruing prior to the fourth day of July, 1851.

“The following property, when owned by any person being the head of a family, and residing with the same, shall be exempt from levy and sale on any execution, writ of attachment or distress for rent; and such articles of property shall continue so exempt, while the family of such person, or any of them, are removing from one place of residence to another, in the State, viz: *First*, Necessary beds, bedsteads and bedding; the necessary utensils for cooking; necessary household furniture, not exceeding in value fifteen dollars; one pair of cards; two spinning wheels; one weaving loom and appendages; one stove and the necessary pipe therefor, being in use or put up ready for use, in any house occupied by such family. *Second*, One milch cow and calf; two sheep for each member of the family, and the fleeces taken from the same; or the fleeces of two sheep for each member of the family, which may have been purchased by any debtor not owning sheep, and the yarn and cloth that

may be manufactured from the same, and sixty dollars' worth of other property, suited to his or her condition or occupation in life. *Third*, Necessary provisions and fuel for the use of the family for three months, and necessary food for the stock hereinbefore exempted from sale, or that may be held under the provisions of this chapter.

Proceedings against Decedents' Estates.

Executors and administrators are allowed one year in which to settle estates. No execution can issue against an executor or administrator, for the term of one year from the date of letters testamentary or of administration; except when the demand is in judgment at the time of the death, in which case execution may issue within one year from the death of the decedent; provided three months' notice be given to the executor or administrator in writing, of the existence of said judgment, before issuing the execution.

All personal property of the decedent, goods and chattels, rights and credits of every kind, are assets in the hands of the administrator, and he is required to make sale as soon as practicable after his appointment.

"No suit shall be brought against any executor or administrator, for or on account of any claim or demand against the testator or intestate; unless such suit shall be brought within one year next after such executor or administrator shall have settled his accounts with the Court of Probate."

When the personal estate is exhausted in payment of debts, real estate may be sold by first procuring an order of either the Circuit Court, or of the County Court of the county in which such real estate may be situate.

All demands against an estate are divided into the following classes, to wit: *First*, Funeral and other expenses attending the last sickness of the deceased. *Second*, Expenses of proving the will, and of taking out letters testamentary or of administration, and the physician's bill in the last sickness. *Third*, Where any executor, administrator or guardian, has received money *as such*, his executor or administrator shall pay such demand as of the *third* class. *Fourth*, All debts or demands which shall be exhibited within two years from the date of letters of administration or testamentary. And all demands, except of persons under legal disability, which shall not be exhibited within two years from the date of letters of administration, shall be forever barred; unless some property of the deceased, which

has not been inventoried, can be found. All persons laboring under any legal disability can have two years after the removal of such disability to exhibit claims.

By the Act of February 11, 1847, "Widows, living in this State, of persons whose estates are administered upon in this State, shall be allowed in all cases, in exclusion of creditors, as their sole and exclusive property forever, necessary beds, bedsteads and bedding for themselves and families; necessary household and kitchen furniture; one spinning wheel, one loom and its appendages, one pair of cards; one stove, and the necessary pipe therefor; the wearing apparel of themselves and families; one cow and calf for every four persons in the family; one horse at the value of forty dollars, one woman's saddle and bridle at the value of fifteen dollars; provisions for themselves and families for one year; two sheep for each member of the family, and the fleeces taken from the same; food for the stock above described for six months; fuel for themselves and families for three months, and sixty dollars' worth of other property."

"In case the widow shall desire to take other property in lieu of that above specified, she shall take the same at the value affixed by the appraisers," or she can take the value of the above mentioned articles in money from the proceeds of sales, at her election.

Assignments of Insolvent Debtors.

Assignees of insolvent debtors are required to settle the estate within eighteen months after the assignment, such settlements to be made before the *Probate* or County Court: Thirty days' notice of the time and place of such settlement must be given, and the Probate Court shall make such order concerning the distribution thereof, as is made in cases of insolvency of deceased persons, and such assignee shall pay the creditors within thirty days after such settlement.

Of the Rights of Married Women.

Married women in Illinois have only common law rights of property.

Of the Statute of Limitations.

By the act of the 13th April, 1849, "All actions founded on any promissory note, bill of exchange, book account or

simple contract; all actions on any promissory note, bond, judgment, contract or indebtedness, executed, rendered, entered into, or accrued beyond the limits of the State, shall be commenced within five years after such recovery, or the cause of such action shall have accrued.

Of Interest and Usury.

Illinois has no usury laws; six per cent. is the interest allowed by law upon every evidence of indebtedness where interest is allowed at all, and is the rate allowed where no rate is specified; ten per cent. may be collected upon money loaned when the rate is specified, but in no other instance. There is no forfeiture for contracting for a greater rate than ten per cent.

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MISSOURI.

Imprisonment for debt does not exist in this State. Collections are made from living debtors through the Circuit Court, which is held in each county semi-annually, or the Courts of the Justices of the Peace, four of which are provided by law for each township in the county, and each of which is authorized to hold a Court every two months; and by special acts of the State Legislature, some counties have a Court of Common Pleas, that has jurisdiction concurrent with both the Circuit and Justices' Courts, and holds terms quarterly. Collections from the estates of deceased debtors are made only through the Probate Court, or the County Court having probate jurisdiction.

The Circuit Court has original jurisdiction in all actions founded on contract, where the debt or balance due, for damages claimed, exclusive of interest, shall exceed fifty dollars; and also in all actions on bonds, bills and notes, for the payment of any sum of money exceeding fifty dollars, exclusive of interest.

Of the Commencement of Suits.

A person commencing a civil action must file in the office of the Clerk of the Circuit Court of the proper county, his petition, setting forth the nature of his complaint, and the remedy sought, which petition must contain, *First*, The title of the cause, specifying the name of the Court and County in which the action is brought, and the names of the parties to the action. *Second*, A statement of the facts constituting the cause of action, or causes of action, in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended. *Third*, A demand of the relief to which the plaintiff may suppose himself entitled, the amount of money demanded, or such facts as will enable the defendant and the court to ascertain the amount demanded.

The petition must be verified by the plaintiff, his agent or

attorney, to the effect that he believes it and the matters therein as stated to be true.

Judgment may be had at the first term of the Court after suit in all actions founded solely upon a bond, bill, or promissory note, for the direct payment of money, provided the defendant has been personally served with the process at least twenty days before the return day of the writ. And so when the action is founded upon an account, or note, or both, and there has been a personal service of at least fifteen days, and the defendant fails to answer the petition. In other cases, the plaintiff is not entitled to trial or judgment till the second term after suit.

Of the Justices' Courts.

Counties are divided into municipal townships, which generally contain about thirty to fifty square miles; each township contains four justices of the peace, who are elected every two years, and who are each authorized to hold a Court every two months.

Justices have original jurisdiction in all actions founded on contract, or bonds, bills and notes, when the debt, or balance due, or damages claimed, exclusive of interest, shall not exceed fifty dollars; and concurrent jurisdiction with the Circuit Court in all cases founded on contract, when the debt or balance due, or damages claimed, exclusive of interest, shall exceed fifty dollars, and not exceed ninety dollars; and in all actions on bonds and notes for the direct payment of any sum of money exceeding fifty and not exceeding one hundred and fifty dollars.

There are no forms required to be observed in a proceeding in a Justices' Court. If the action is founded on a bond or note, the same must be filed with the Justice, or if on an account, a bill of items of the account must be filed with the Justice before a summons is issued against the defendant.

Attachment suits before Justices lie for the same causes, and require a like proceeding in all respects (except no petition is required,) as is required in the Circuit Court.

Appeals can be taken from the judgment of the Justices to the Circuit Court in any case, and for any amount, by the party who may apply therefor in ten days after judgment, and make oath that his application is not made for vexation or delay, but because he believes the appellant is injured by the judgment of the Justice.

Of the Probate Courts.

All demands, large or small, against the estate of deceased persons in this State, must be established and paid in accordance with the administration law, as follows :

A person desiring to establish a demand against an estate, must deliver to the executor, or administrator, a written notice, containing a copy of the instrument of writing or account on which it is founded, and stating that he will, on some day to be named therein, during the sitting of the Probate or County Court, as the case may be, present the same for allowance.

Notice may be waived by the personal appearance of the administrator in Court.

Before any demand can be allowed, the claimant must first either make oath in open Court, or file an affidavit with his demand, stating that, to the best of his knowledge and belief, he has given credits to the estate for all payments and offsets to which it is entitled ; that his demand as presented is correctly stated, and that the amount (or balance) claimed is justly due.

The above affidavit cannot be received as any evidence of the demand, but the same must be established by competent legal testimony before it is allowed or adjusted.

Demands thus allowed are divided into the following classes : *First*, Funeral expenses. *Second*, Expenses of last sickness, wages of servants, and demands for medicine and medical attendance during the last sickness of the deceased. *Third*, Debts due the State. *Fourth*, Judgments rendered against the deceased in his life time. *Fifth*, All demands without regard to quality which shall be legally exhibited against the estate within one year after granting the first letters on the estate. *Sixth*, All demands thus exhibited after the end of one year, and within two years after letters granted ; all demands thus exhibited after the expiration of two years, and within three years after granting such letters.

Of Attachments.

Creditors whose demands amount to fifty dollars or more, may sue their debtors in the Circuit Court, by attachment, in the following cases :

First. Where the debtor is not a resident of, nor resides within this State.

[*Note.*—A non-resident may have an attachment in this State against a non-resident. 3d Mo. R., 605. 7th Mo. R., 281.]

Second. Where the debtor conceals himself so that the ordinary process of law cannot be served upon him.

Third. Where the debtor has absconded or absented himself from his usual place of abode in the State, so that the ordinary process of law cannot be served upon him.

Fourth. Where the debtor is about to remove his property or effects out of the State, with the intent to defraud, hinder, or delay his creditors.

Fifth. Where the debtor has fraudulently conveyed or assigned his property or effects so as to hinder or delay his creditors.

Sixth. Where the debtor has fraudulently concealed or disposed of his property or effects so as to hinder or delay his creditors.

Seventh. Where the debtor is about fraudulently to convey or assign his property or effects so as to hinder or delay his creditors.

Eighth. Where the debtor is about fraudulently to conceal or dispose of his property or effects so as to hinder or delay his creditors.

Ninth. Where the debt was contracted out of the State and the debtor has absconded, or secretly removed his property into the State, with the intent to defraud, hinder, or delay his creditors.

Creditors may sue their debtors upon demands before they become due, in any one of the cases mentioned in the above *fourth, fifth, sixth, seventh, eighth, or ninth* clauses.

How to proceed in an Attachment Suit.

A petition as in other cases must be filed.

In addition to the affidavit of the correctness of petition, as above stated, the affidavit must state that the defendant is justly indebted to plaintiff after allowing all past credits and offsets in a sum, (to be specified,) and on what account, and shall also state that affiant has good reason to believe, and does believe the existence of one or more of the causes which would entitle the plaintiff to sue by attachment.

The plaintiff must also file with his petition and affidavit a bond, executed by himself, or some other responsible person as principal, and one or more securities, resident householders of the county in which the action is brought, in a

sum at least double the amount of the demand sworn to, payable to the State of Missouri; conditioned that the plaintiff shall prosecute his action without delay, and with effect, refund all sums of money that may be adjudged, to be refunded to the defendant, or found to have been received by the plaintiff, and not justly due him, and pay all damages that may accrue to any defendant or garnishee by reason of the attachment, or any process or proceeding in the suit, or by reason of any judgment or process thereon.

After an attachment suit is properly commenced, it is conducted through to execution, as near as may be, according to the provisions of an ordinary civil suit.

Any property can be attached that is liable to execution.

Of the Execution.

Execution for the enforcement of a judgment may issue at any time within five years after the entry of judgment. After the lapse of five years an execution can be issued only by leave of the Court, on motion, with notice to the adverse party. There is no provision for the *stay of execution*. As a general rule, the money collected upon judgment cannot be had by the plaintiff under six months after execution, except in St. Louis, and those counties wherein are established Courts of Common Pleas.

Of Property Exempt from Execution.

If defendant be the head of a family, one hundred and fifty dollars' worth of property, real, personal or mixed; and if he have them, the spinning wheels and cards, one loom and apparatus necessary for manufacturing cloth in a private family; all the spun yarn, thread and cloth manufactured for family use; any quantity of hemp, flax and wool, not exceeding twenty-five pounds each; all wearing apparel of the family; two beds, with the usual bedding, and such other household and kitchen furniture not exceeding the value of twenty-five dollars as may be necessary for the family, agreeably to an inventory thereof to be returned on oath, with the execution, by the officer whose duty it is to levy the same; the necessary tools and implements of trade of any mechanic while carrying on his trade; all arms and military equipments required by law to be kept; all such provisions as may be on hand for family use, not exceeding twenty-five dollars in value; all lawyers, physi-

cians and ministers of the gospel shall have the privilege of selecting such books as shall be necessary to their profession, in the place of other property herein allowed, at their option; the doctors of medicine, in lieu of the property exempt from execution, may be allowed to select their medicines.

A person other than the head of a family, is allowed to hold exempt from execution only his wearing apparel, and if a mechanic, his necessary tools and implements of trade whilst carrying on his trade.

Of the Statute of Limitations.

Actions must be commenced within *ten years* upon any writing, whether sealed or unsealed, for the direct payment of money or property; and within *five years* upon any other contract, obligation, or liability, express or implied. (Secs. 3 and 4, art. 2, of Act of 1849, to reform pleadings, &c.)

In an action brought to recover a balance due on a mutual, open and current account, when there have been reciprocal demands between the parties, the cause of action shall be deemed to have accrued from the time of the last item in the account, on the adverse side. (Sec. 8, same act.)

Of the Rights of Married Women, &c.

In addition to the property exempt from execution when owned by the head of a family, as set forth above, is the following, to wit: The property owned by a woman before her marriage, and that which she may acquire after her marriage by descent, gift, grant, devise, or otherwise, and the use and profits thereof shall be exempt from all debts and liabilities of her husband, contracted by him previous to their marriage, or previous to the time the wife came into the possession of such property. So the property owned by a man before his marriage, and that which he may acquire after his marriage, by descent, gift, grant, or devise, and the use and profits thereof, shall be exempt from all debts and liabilities contracted or incurred by his wife before their marriage.

The property owned by a woman before her marriage, and that which she may acquire after her marriage, by descent, gift, grant, or devise, shall be exempt from levy and sale to pay any debt contracted as security, or liability incurred as security, by her husband, at any time, or under any circum-

stances whatever, and such property shall be exempt from levy and sale for any fine or costs imposed upon the husband in any criminal case.

Interest and Usury.

Creditors shall be allowed to receive interest at the rate of six per cent. per annum for all moneys after they become due by any instrument of the debtor in writing; for money lent, or money due on settlement of accounts, from the day of liquidating the same and ascertaining the balance; for money recovered for the use of another, and obtained without the owner's knowledge of the receipt; for money due and withheld by an unreasonable and vexatious delay of payment or settlement of accounts; and for all other money due, or to become due, for the forbearance of payment whereof an express promise to pay interest has been made. The same interest is allowed on all judgments at law.

The penalty for violating this law is a forfeiture of the whole interest to the County School Fund, and, in addition, the amount of interest contracted or agreed for, received or taken over and above the interest at the rate of six per cent. per annum.

IOWA.

Of Arrest for Debt.

No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud. (Constitution of Iowa, Bill of Rights, Art. 19.)

A judgment creditor in the Supreme or District Court, when the debtor resides out of the State, or when it appears by affidavit, or otherwise, to the satisfaction of the Court, that the judgment debtor has property which he unjustly refuses to apply towards the satisfaction of the judgment, is entitled to an order for the appearance and examination of the said debtor. Should he fail to appear, or should there be danger that he will leave the State, or conceal himself, a warrant will be issued for his arrest and imprisonment, until he fully answers to proper interrogatories. Property, rights, or credits, subject to execution, on discovery by this process, may be immediately levied upon to satisfy the judgment. (The Code, p. 276, 277.)

Obtaining Goods under False Pretences.

“If any person designedly, and by false pretence, or by any privy or false token, and with intent to defraud, obtain from another any money, goods, or other property; or so obtain the signature of any person to any written instrument, the false making of which would be punished as forgery, he shall be punished by imprisonment in the Penitentiary not more than seven years, or by fine not exceeding five hundred dollars, and imprisonment in the County Jail not exceeding one year.” (Code, p. 380.)

Of Attachments.

In actions for the recovery of money, the property of defendant *not exempt from execution*, (see title Execution,)

may be attached either at the commencement or during the progress of the suit.

The attachment issues upon affidavit that the defendant is a foreign corporation, or acting as such, that he is a non-resident of the State, or that he is in some manner about to dispose of or remove his property out of the State, without leaving sufficient remaining for the payment of his debts, or that he has disposed of his property, (in whole or in part,) with intent to defraud his creditors; or that he has absconded so that ordinary process cannot be served upon him; or that defendant is about to abscond, to the injury of his creditors; or that he has property, goods, or money, or lands and tenements, or choses in action, *not* exempt from execution, which he refuses to give either in payment, or security of the demand. (Laws of Iowa, 1853, p.143.)

If the demand on which an attachment is prayed is not founded on contract, the Judges of the Supreme, District and County Courts, are authorized to make an allowance, upon view of the petition, of the amount for which it may issue. (Code, sec. 1851.)

The attachment may issue before the debt be due, where nothing but time is required to fix the indebtedness, if the debtor is guilty of a fraudulent intent, or is about to remove from the State without securing its payment. (Code, sec. 1852.)

Before an attachment can issue in any case, a bond must be filed, with sureties, approved by the Clerk, in a penalty of at least double the value of the property sought to be attached, and, if in the District Court, not less than \$250, conditioned that the plaintiff will pay all damages the defendant may sustain by reason of the wrongful suing out of the attachment. (Code, sec. 1853.)

An action may be brought on the bond forthwith, and exemplary damages may be recovered therein, if the attachment have been wilfully sued out without color of good cause.

The attachment will run into any county where the defendant's property may be found, and several writs may be sent to different counties at the same time.

Stock, or an interest of defendant in any company, debts due him, and property of his held by third persons, may be attached by the usual garnishment process, and the attachment is binding from the time notice of the garnishment is served upon the supposed debtor, or person holding property of the original defendant.

Of Execution.

Execution may issue at any time within five years from the entering of judgment. After five years, a scire facias must be sued out, and an order of the Court obtained thereon. From the District Court they may be directed to any county in the State. When the judgment is against husband and wife, the execution may issue against the property of either, or both. Bank bills and things in action, may be levied upon, sold, appropriated, or assigned by the Sheriff, and his receipt is a good discharge to any person indebted to the execution defendant. The property of all *civil* corporations is exempt from execution, and the property of a private citizen can in no case be levied upon for the debt of such corporation.

Of Property Exempt from Execution.

All wearing apparel kept for actual use, and trunks and other receptacles to contain the same; one musket or rifle; the proper tools, instruments, or books of any farmer, mechanic, surveyor, physician, teacher, or professor; the horse or team and wagon, or other vehicle, with the proper harness or tackle, by the use of which any physician, public officer, farmer, teamster, or other laborer, habitually earns his living; all libraries, family bibles, portraits and paintings; a seat or pew occupied by the debtor or his family in any house of public worship, and an interest in a public or private burying ground, not exceeding one acre for any one defendant.

“If the debtor is the head of a family, there is farther exempt, his homestead, as provided by law; one cow and calf; one horse; (unless a horse has previously been exempted;) fifty sheep, and the wool therefrom; five hogs, and all pigs under six months old; the necessary food for all animals exempt from execution, for sixty days; all flax raised by the defendant, and the manufactures therefrom; one bedstead and the necessary bedding for every two in the family; all cloth manufactured by the defendant, not exceeding one hundred yards in quantity; household and kitchen furniture not exceeding one hundred dollars in value; all spinning wheels and looms, and other instruments of domestic labor kept for actual use; the necessary provisions and fuel for the use of the family for six months,” and “the earnings of the debtor for his personal services, or those of his family, at any time within ninety days next preceding the levy, are also exempt from execution and attachment.” (Sec. 1899.)

The property of *non-residents* is liable to execution, with the exception of ordinary wearing apparel, and trunks to contain the same. But any person coming to this State with the intention of remaining, is a resident within the meaning of the execution law. (Sec. 1902.)

Of the Stay of Execution.

On judgments rendered by Justices of the Peace, and on actions originating in the District Court, execution may be stayed, as follows:—On sums less than five dollars, twenty days; between five and fifteen dollars, thirty days; between fifteen and twenty-five dollars, forty days; between twenty-five and forty dollars, sixty days; and on all sums over forty dollars not more than ninety days. A stay of execution can only be taken upon entering approved security for the payment of the judgment and costs; and if the defendant was personally served with process, he cannot afterwards be allowed an appeal to the District or Supreme Court. If the judgment is not fully paid at the expiration of the stay, judgment is entered against the surety, and execution may be issued forthwith against both principal and surety. (Laws of 1853, pp. 195, 196, 197.)

Of the Homestead.

The homestead of every head of a family is exempt from judicial sale, and if the owner is married, no conveyance thereof is valid unless both husband and wife join in the conveyance. It remains liable on execution for debts contracted before the passage of the homestead law, (July 1st, 1851,) or prior to the purchase of the homestead, or for those created by written contract by the persons having power to convey, and expressly stipulating that the homestead is liable therefor.

The homestead must embrace the house used as a home by the owner, and, if within a town plat, cannot exceed one-half of an acre in extent; if not within a town plat, not more than fifty acres. In either case, it may be enlarged till the value reaches five hundred dollars.

The owner may select his own homestead, and have it marked out, platted and recorded in the homestead book. If he omits doing so, an officer having an execution must mark it off, and add the expenses to his writ. The homestead may be changed, but not so as to increase its value.

Upon the death of either husband or wife, the survivor may continue to possess and occupy the whole homestead, until otherwise disposed of according to law. If there is no such survivor, it descends to the issue of either husband or wife, and may be held by such issue exempt from any antecedent debt of their parents, or their own. (The Code, pp. 197,—200.)

[An instrument to bind the *homestead*, must be executed by husband and wife, and acknowledged with all the formalities of a deed, and expressly stipulate that the homestead is liable; but even then, all other property must be exhausted before it can be touched on execution. The words, "*I hereby waive my rights under the laws of Iowa relative to executions, and stipulate that the exemptions therein contained shall not apply in any suit upon this note,*" or other words of like tenor, inserted in a note for the purpose of waiving the exemptions in the execution law, would probably be held binding by the Courts. I know of no case decided in this State upon such an instrument. A *bill of sale* of the property exempt, is usually made the security in doubtful cases.]

Claims against Decedents' Estates.

Within thirty days after their appointment, executors must give notice thereof, by publication, or by printing, as the County Judge—who is Judge of Probate—may direct.

Claims against the estate must be clearly stated, sworn to, and filed in the office of County Judge. Ten days' notice of the hearing, endorsed on a copy of the claim, must be served upon one of the executors in the manner required for commencing actions in the District Court.

The executor may, with the approbation of the Court, admit claims with the correctness of which he is satisfied, but *not* until the claimant has sworn to their correctness. The like rule applies to payments or set offs to any demands due the estate.

Demands not yet due may be presented and allowed, and contingent liabilities must be presented and proved.

Unsatisfied judgments, rendered prior to the death of the decedent, must be filed as other claims.

Suits pending at decedent's death, may be prosecuted to judgment, but no lien is created thereby.

Claims against decedents' estates are to be paid in the following order :

1st. The charges of the last sickness and funeral of the deceased.

2d. Any allowance made by the Court for the maintenance of the widow and minor children.

3d. Debts entitled to preference under the laws of the United States.

4th. Public rates and taxes.

5th. Claims filed within six months after the notice given by the executors of their appointment.

6th. All other debts.

All claims not filed within one year and a half after the above mentioned notice, are forever barred, unless pending in the District or Supreme Court.

Demands in each of the above classes, are to be paid off in their order. If there be not means sufficient for any one class, the claimants in that class will be paid *pro rata*.

Of Assignments for the Benefit of Creditors.

No general assignment of property by an insolvent, or in contemplation of insolvency for the benefit of creditors of the assignor, shall be valid, unless it be made for the benefit of all the creditors in proportion to the amount of their respective demands. (Code, sec. 977.)

Of the Statute of Limitations.

Actions of slander, libel, for injuries to the person, or for a statute penalty, must be brought within *two* years.

Actions against public officers, arising on any official liability, within *three* years.

Actions founded on unwritten contracts, or for injuries to property, or for relief on the ground of fraud in cases formerly solely cognizable in chancery, and all other actions not otherwise provided for, within *five* years.

Actions founded on *written* contracts, or judgments of any courts, and then brought for the recovery of real property, within *ten* years.

Actions founded on a judgment of a Court of Record, of any of the United States or of the Federal Courts, within *twenty* years.

These limitations do not apply, if from the answer of the defendant, or his testimony as a witness, it appears affirmatively that the cause of action still justly subsists.

The time during which the defendant is a non-resident of this State is excluded in computing the time.

If the action be barred by the law of the place where the defendant has previously resided, it is also a bar here.

These limitations apply to all bodies, corporate or politic, generally; but not to evidences of debt circulated as money.

Causes of action founded on contract, are *revived by an admission that the debt is unpaid, as well as by a new promise to pay the same.* (The Code, pp. 245, 246, 247.)

The statute makes no distinction between resident and non-resident creditors.

Of the Parties to Suits.

The makers and endorsers of negotiable instruments and sureties, severally liable, may all, or any part of them be joined in the same action; and persons jointly and severally liable in the same instrument, may all, or any part of them be sued at once.

Partners may sue or be sued either in their partnership name, or by setting forth their individual names. (Code, p. 248.)

Personal actions, generally, must be brought in the county wherein some of the defendants reside. In cases of attachment, where there is no personal service of process, on suits for the possession of personal property, to enforce a lien, or in relation to real property, suit may be brought in the county where the property lies, or may be found. (Code, pp. 249, 250.)

When a contract, by its terms, is to be performed in a particular place, suit thereon may be brought in the county wherein such place is situated. (Ibid.)

Of Justices of the Peace.

The jurisdiction of Justices of the Peace, generally, is co-extensive with their respective counties. It extends to all civil cases, (except cases in Chancery, and those in which the titles to real estate may arise,) when the amount in controversy does not exceed one hundred dollars, and, by consent of parties, may be extended to any amount not exceeding five hundred dollars. Suit is commenced by serving a notice upon the defendant, stating the cause of action, the amount claimed, and the time and place of trial, which notice must

be served at least five days before the time of trial, and be returnable not more than fifteen days from its date.

Judgments before a Justice may be made a lien upon real estate, when above ten dollars, by filing a transcript thereof in the office of the Clerk of the District Court.

Appeals may be taken from any final judgment of a Justice, within twenty days from the rendition thereof, but in no case until approved security is filed with the Justice in a sum sufficient to cover the judgment and costs. In the District Court the same issue tried before the Justice is again tried upon the merits, and if the appeal be taken solely for delay, the Court may award ten per cent. damages. Writs of error are also allowed, but execution is not stayed thereupon unless surety be filed, as in case of an appeal.

Either party may demand a jury in all cases before a Justice, and the course of procedure is, generally, the same as in the District Court.

Of the Rights of Married Women.

Personal property of the wife, if left under the control of the husband, is presumed, in favor of third persons, to have been vested in him. To avoid its entire surrender, she may make herself a preferred creditor of his estate, in case of his death or insolvency, by filing with the County Recorder a statement of her claim, with its value. Specific articles of personal property belonging to the wife, may be exempt from the husband's debts, by filing a notice in like manner.

Bank stock, written securities, things in action, and other property which does not ordinarily pass by mere delivery, or oral contract, may be held exempt from the husband's debts without such recorded notice. (Code, pp. 218, 219, 220.)

Except in certain cases, the husband is not liable for the the separate debts of the wife, nor is the property of the wife, nor the rent or income therefrom, liable for the debts of the husband. (Sec. 1453.) Contracts made by the wife in relation to her separate property, or those purporting to bind herself only, do not bind the husband. (Sec. 1454.)

The expenses of the family, the education of the children, and similar obligations, are chargeable upon the property of both husband and wife, and in relation thereto, they may be sued jointly, or the husband alone. (Sec. 1455.)

Married women may receive grants, or gifts of property from their husbands, without the intervention of trustees, but this affects only the *mode* of conveyance. (Sec. 1192.)

A married woman may convey her interest in real estate in the same manner as other persons. (Sec. 1207.)

The estate by courtesy, is abolished in Iowa. The right of dower in the wife is the same as at common law; the same right is extended to the husband, in lieu of the estate by courtesy. (Laws 1853, pp. 97, 98.)

A widow is entitled to one third of the personal estate of her deceased husband, after the payment of his debts, to which her title is absolute. (Code, sec. 1390, Laws 1853, p. 98.)

Of Interest and Usury.

Under the Code, parties were at liberty to contract for any rate of interest. By a subsequent statute, which took effect March 9th, 1853, the rate of contract is limited to ten per cent. The rate fixed by law, when no other is agreed upon by the parties, is six per cent. Judgments may bear the same rate of interest as that of the contract on which they are rendered, not to exceed ten per cent. If any greater per centum has been contracted for, it works a forfeiture of ten per cent. per annum to the school fund of the county in which the suit is brought, and the plaintiff can only obtain judgment for the principal sum, without either interest or costs. Judgment for the forfeiture will be rendered, though the suit be not contested, and the party contracting to pay the illegal interest is made a competent witness to prove the usurious contract. The *bona fide* assignee of any usurious contract may recover of the usurer the full amount of the consideration paid him for such assignment. The statute prohibits indirect as well as direct usurious contracts. (Laws 1853, pp. 67, 68, 69.)

[No contract for a greater rate of interest than ten per cent., made with a non-resident creditor, or any other person, would be good in Iowa, unless it were of such a character as would make it binding, on the principles of the common and commercial law everywhere.]

Commission Merchants.

Commission merchants, and all persons trading and dealing on commission, and consignees authorized to sell, when the owner of the goods does not reside in this State, are for the purpose of taxation, to be deemed the owner of the property in their possession.

Any person owning, or having in his possession or control within this State, with authority to sell the same, any personal property purchased either in or out of this State, with a view of being sold at an advanced price or profit, or which has been consigned to him from any place out of this State, for the purpose of being sold within the same, shall be held to be a merchant for the purpose of this chapter. Such property shall be listed for taxation, and in estimating the value thereof, the merchant shall take the average value of such property in his possession or control, during the year next previous to the time of listing; and if he have not been engaged in that business so long, then he shall take the average during such time as he may have been engaged; and if he be commencing, he shall take the value of the property at the time of listing. (Code, sec. 468.)

Commencement of Suits.

To secure a trial at the first term after bringing suit, original *notice* (the only process generally) must be personally served upon the parties defendant, at least ten days before the commencement of the term.

The District Courts having general jurisdiction, hold two terms (Spring and Fall,) a year, in each county of the State. Upon mere money demands, judgment may usually be obtained at the first term after the suit is brought. If there be any serious controversy, judgment may be delayed, one, two, or even more terms; depending here, as elsewhere, upon the character of the controversy, and the spirit with which it is litigated. Demands not exceeding one hundred dollars, may be sued upon at any time before a Justice of the Peace, and execution may issue immediately upon the rendition of judgment, unless an appeal or a stay of execution be taken, in either of which cases, the debt is made secure.

Notes, Bills, Bonds, &c.—In actions upon any note, bill, bond, or other evidence of debt, it shall not be necessary for the plaintiff to prove the execution or assignment of the same, unless such execution or assignment is specifically denied by the defendant under oath. (Laws 1853, p. 188.)

Of Private Seals, &c.

The use of *private seals* in written contracts (except the seal of corporations,) is abolished by sec. 974 of the Code,

and the addition of a private seal to an instrument of writing hereafter made, does not affect its character in any respect.

Sec. 975. All contracts in writing hereafter made and signed by the party to be bound, or his authorized agent or attorney, shall impose a consideration in the same manner as sealed instruments now do.

Sec. 976. The want or failure, in whole or in part, of the consideration of a written contract, may be shown as a defence, total or partial, as the case may be, in an action on such contract, brought by one who is *not* an innocent and bona fide holder.

WISCONSIN.

When a Debtor may be Imprisoned.

Imprisonment for debt does not exist in this State in any case arising upon contract. In all actions of *tort*, if the plaintiff, his agent or attorney, shall make an affidavit before some Judge of a Court of Record of the State, that he hath a good cause of action against the defendant, stating the particulars thereof, and the amount of damages he claims, such Judge shall make an order that the defendant be held to bail in such sum as the justice of the case may require. A defendant may also be arrested when the demand is for money collected by him as a public officer; or, where it arises from the misconduct or neglect of the defendant in any professional employment, or public office.

Of the Courts, and how soon Judgment may be obtained.

There are but two Courts besides the U. S. Courts, viz: *The Justice of the Peace Court*, and the *Circuit Court*.

The former has jurisdiction of all demands not exceeding one hundred dollars, and is open at all times. An appeal lies from this Court to the Circuit Court. Judgment may be obtained in the Justice of the Peace Court in from one to four weeks as a general rule; but on application of either party, and good cause shown, a case may be adjourned for ninety days.

The Circuit Court is a court of general jurisdiction—civil and criminal—at common law and in chancery. It holds two terms a year—Fall and Spring. Suits commenced in this Court three months prior to the beginning of a Term, may usually be brought to judgment during the Term.

Of Attachments.

1st. *In the Justice of the Peace Court*—An attachment of the goods of the debtor may be had in this Court in the following cases:

I. Where the defendant is a non-resident corporation.

II. Where the defendant is a non-resident of the State, and has not resided therein for three months next preceding the institution of the suit.

III. Where the defendant has absconded, or is about to abscond from the State.

IV. Where the defendant has removed, or is about to remove, any of his property out of the State, with intent to defraud his creditors.

V. Where the defendant is in any other county, and more than one hundred miles from the residence of the Justice.

VI. Where the defendant contracted the debt under fraudulent representations.

VII. Where the defendant so conceals himself that the process of summons cannot be served upon him.

VIII. Where the defendant has fraudulently conveyed, or disposed of, or is about fraudulently to convey or dispose of, his property or effects, so as to hinder or delay his creditors.

2d. *In the Circuit Court.*—Attachments against property are allowed in this Court, in the following cases :

I. Where the defendant has absconded, or is about to abscond, from the State, or is concealed therein to the injury of his creditors.

II. Where the defendant has assigned, disposed of, or concealed, or is about to assign, dispose of, or conceal, any of his property with intent to defraud his creditors.

III. Where the defendant has removed, or is about to remove, any of his property out of the State, with intent to defraud his creditors.

IV. Where he fraudulently contracted the debt, or incurred the obligation respecting which the suit is brought.

V. Where the defendant is a non-resident.

VI. Where the defendant is a non-resident corporation.

VII. Where the defendant has fraudulently conveyed, or disposed of his property, or a part of it: or is about fraudulently to convey, or dispose of the same, or a part of it, with intent to defraud his creditors.

The existence of the fact upon which the attachment is sought must be shown by affidavit,—and the amount sworn to be due, must exceed one hundred dollars.

Of the Stay of Execution.

In the Justices' Court, there is a stay of execution allowed of from one to four months, according to the amount of the judgment, upon filing approved security.

In the Circuit Court, execution may issue immediately after judgment in all cases; and in cases of torts, it may issue against the body of the defendant. There is no stay of execution in this Court.

Any person imprisoned on an execution in actions of tort may be discharged at the end of ten days, upon taking oath that he has not real or personal estate to the amount of twenty dollars, except such as is by law exempt from execution, and that he has not conveyed away or concealed his property to defraud his creditors.

Of the Exemption Laws.

The following property is exempt from forced sale on execution, or any final process from a Court:

A homestead, consisting of any quantity of land, not exceeding forty acres, used for agricultural purposes, and the dwelling house thereon, and its appurtenances, to be selected by the owner; or instead thereof, at the option of the owner, a quantity of land, not exceeding one-fourth of an acre, in a city or village, and the dwelling house thereon with its appurtenances. Also, the family bible, family pictures, books, &c., a seat or pew in places of public worship, the rites of burial of the dead; all wearing apparel of the debtor and his family, all beds, bedding, &c., kept for use; stoves, cooking utensils, and all other household furniture not exceeding two hundred dollars in value; two cows, ten swine, one yoke of oxen, and one horse; or in lieu thereof, a span of horses; ten sheep, and the wool thereof, either raw or manufactured; the necessary food for exempted stock for one year; one wagon, cart, or dray, one sleigh, one plough, one drag, and other farming utensils, including tackle for teams not exceeding fifty dollars in value; provisions for the debtor and his family for one year; the tools and implements, or stock in trade of any mechanic, miner, or other person, not exceeding two hundred dollars in value; the library and implements of any professional man, not exceeding two hundred dollars in value. All of which exempted articles are to be chosen by the debtor, his agent, &c.

Limitation of Personal Actions.

The following actions shall be commenced within six years next after the cause of action shall accrue, and not afterwards:

1st. All actions of debt, founded upon any contract or liability, not under seal; except such as are brought upon the judgment or decree of some Court of Record of the United States, or of any State or Territory of the United States.

2d. All actions upon judgments rendered in any Court not being a Court of Record.

3d. All actions for arrears of rent.

4th. All actions of assumpsit, or on the case, founded on any contract or liability, express or implied.

5th. All actions for waste and for trespass on land.

6th. All actions of replevin, and all other actions for taking, detaining, or injuring goods or chattels.

7th. All other actions on the case, except for slanderous words and for libels.

Actions for assault and battery and for slanderous words must be commenced within two years.

Actions against Sheriffs in their official capacity within three years from the time the cause of action accrued.

None of the foregoing provisions apply to any action brought upon a promissory note which is signed in the presence of an attesting witness, provided the action be brought by the original payee, or by his executor or administrator; nor to an action brought upon any bills, notes, or other evidences of debt issued by any bank.

In actions on open account, the cause of action is deemed to have accrued at the date of the last item proved.

All personal actions not limited as above, must be brought within twenty years from the time of the accruing of the same.

An infant, a married woman, insane person, or one absent from the United States, may bring their actions within the times limited above, after their disability shall be removed.

It is also further provided, that "It shall be lawful for any person against whom any action shall be commenced in any Court of this State, where the cause of action accrued without the State upon a contract or agreement express or implied, more than six years before the commencement of the action, or upon any sealed or attested instrument in writing, or judgment or decree of any Court, more than ten years before the commencement of the action, to plead the same and give the same in bar of the plaintiff's right of action."

Rights and Privileges of Married Women.

"The real estate and the rents, issues and profits thereof of any female now married, shall not be subject to the dis-

posals of her husband, but shall be her sole and separate property, as if she were a single female.

"The real and personal property of any female who may hereafter marry, and which she shall own at the time of marriage, and the rents, issues and profits thereof shall not be subject to the disposal of her husband, nor be liable for his debts,—and shall continue her sole and separate property.

"Any married female may receive by inheritance, or by gift, grant, devise or bequest, from any person, other than her husband, and hold to her sole and separate use, and convey and devise, real and personal property, and any interest or estate therein, and the rents, issues and profits, in the same manner, and with like effect, as if she were unmarried, and the same shall not be subject to the disposal of her husband, nor liable for his debts."

The foregoing is a copy of a law of this State, passed A. D., 1850, and embraces substantially all the provisions of the law on the subject.

By a previous law it was also provided that no mortgage or other alienation of a homestead by a husband should be valid without the signature of the wife to the same.

Rate of Interest.

The legal interest in this State is seven per cent., but it is competent for parties to contract for twelve. Any person who may have paid more than the rate allowed by law, may recover back three times the excess so paid. Every bond, bill, note, &c., tainted with usury, is declared to be void; and shall be ordered by the Court to be delivered up to be cancelled, whenever its character is made to appear.

Any person charged with usury may be compelled to answer on oath as to the truth of the charge.

CALIFORNIA.

When a Debtor may be Arrested.

Imprisonment for debt does not exist in this State, except where the defendant is guilty of fraud. A warrant of arrest may be issued in the following cases, upon the plaintiff, or some person for him, making an affidavit, setting forth such facts as are necessary to establish one or more of the following charges, viz :

1. That the defendant is about to depart from the State with the intent to defraud his creditors.

2. That the demand is for a fine or penalty ; or for money or property embezzled or fraudulently misapplied, or converted to the defendant's own use: such as moneys received by an attorney, factor, broker, or agent, in the course of his employment or business as such, or by any other person acting in a fiduciary character.

3. That the defendant was guilty of fraud in contracting the debt, or incurring the obligation, upon which suit is brought.

4. That the defendant has removed, concealed, or disposed of his property, or is about to remove, conceal, or dispose of his property, with the intent to defraud his creditors.

Before the defendant can be arrested, the plaintiff must enter into bonds, with two or more sufficient sureties, conditioned to pay to the defendant the costs that may be awarded and the damages he may sustain on account of such arrest, to the amount of at least two hundred dollars, in case the plaintiff fails to sustain his charges.

When the defendant is arrested, the officer making the arrest is required to notify the plaintiff immediately. The defendant is entitled to his trial forthwith, and he must be heard within three hours, or be discharged, unless the hearing is necessarily delayed on account of another trial before the same Judge who allowed the writ. In case the plaintiff obtains a judgment upon the trial, he may have another arrest upon the same ground as in the first case, if necessary.

The defendant may, at any time after arrest, procure his discharge from the same by giving a bond with two sureties for the amount claimed in the order of arrest, conditioned that he shall at all times render himself amenable to the same.

Of Attachment.

An attachment may issue against the real or personal estate of a debtor, in all cases where a sum of money is due upon a California contract. The domicile of the plaintiff or defendant is not material, but the contract itself must be a California contract—one made with the intent that it should be executed or enforced there, or which must necessarily be enforced there.

In order to procure the attachment, it is requisite for the plaintiff, or some person for him, to make affidavit that he has a good cause of action, and specifying the nature and amount of the same. The affidavit must be filed with the Clerk of the Court, together with a bond with two or more sureties, in a sum not less than two hundred dollars, nor more than the amount of the plaintiff's demand, to the effect that if the defendant should recover a judgment, the plaintiff will pay all costs awarded, and all damages sustained by defendant on account of an improper or wrongful attachment, not exceeding the sum named in the bond. The Clerk then issues the writ, which is handed to the Sheriff, who is bound to execute it, unless the defendant gives bonds with sufficient sureties, for the payment of the plaintiff's claim and costs, should he recover judgment. The defendant may give this bond at any time before judgment, upon reasonable notice to the plaintiff, and upon so doing, the Sheriff is bound to re-deliver to him all property attached and not sold, and the proceeds of any property that may have been sold. The sureties given by either plaintiff or defendant must be residents of the State, and householders, or freeholders. They must also be worth double the amount named in the bond.

If the obligation or contract on which the attachment is based, be not secured in some way on either real or personal estate, the attachment may be had, and proceeded in, whether such contract was made in California, or elsewhere. All property exempt from execution, is also exempt from attachment.

Of Execution.

In all cases when it is necessary to proceed by execution, the personal estate of the debtor must be sold first, and if that proves insufficient to satisfy the debt or demand, then the real estate may be sold. The debtor is allowed by law six months after the sale of real property to redeem the same, except leasehold estate of unexpired terms of less than two years, by paying to the purchaser the amount for which such real property was sold, together with eighteen per cent. interest thereon.

Of Property Exempt from Execution.

The *homestead exemption* in this State is sweeping. The debtor is allowed a quantity of land, with the mansion or dwelling house and its appurtenances, not exceeding in value five thousand dollars, to be selected by the owner, exempt from levy and sale on execution for any debt contracted since the first day of July, eighteen hundred and fifty-one, or at any time, out of the State. This exemption does not apply to liens given for the purchase money of any real estate, nor to mechanics' liens, nor to mortgages, nor to taxes. But no judicial sale upon a mortgage, or alienation by a married man, is valid without the signature of the wife has been obtained to the mortgage or other instrument, properly acknowledged, &c., except it be to secure the payment of purchase money. If either the plaintiff or defendant require it, appraisers must be summoned to appraise the homestead. If it is in extent not over two thousand and five hundred square yards, and is valued at more than five thousand dollars, with all the improvements erected thereon, then either the excess or the whole may be sold. If the whole is sold, no bid for less than five thousand dollars can be received, and the amount exempt must be paid to the defendant in cash. But should the homestead exceed in extent, two thousand five hundred square yards, and five thousand dollars in value, the appraisers are required to set off land, including the mansion house, to the value of five thousand dollars, which the debtor retains. The same exemption extends to the wife and children upon the decease of the head of a family.

Of the Rights of Married Women.

In this State, a married woman possesses most, if not all the privileges and rights of a single woman, in respect to her

property. By an act of the Legislature, passed in 1852, she is authorized to transact business in her own name. All property, real, personal, or mixed, owned by the wife before marriage, and all that acquired by her after marriage, either by gift, bequest, devise, or descent, is her separate property. The law is the same in regard to the husband—all property which he may have before marriage, and all he acquires afterward, by gift, bequest, devise, or descent, being *his* separate property. Property acquired by either the husband or wife after the marriage, in any other manner than by gift, bequest, devise, or descent, is the common property of both husband and wife.

It follows, then, that all property acquired by the industry, labor, or business of either the husband or wife, or both of them, is the common property of both. The husband has the entire control and management of such common property, and possesses the same absolute right of disposition of it, that he has over his own separate estate. He has also the control and management of his wife's separate estate during the marriage; but he cannot make a sale, or alienation of any portion of such property, nor can he create any lien or incumbrance thereon, unless by an instrument in writing, signed by both husband and wife, and acknowledged by her upon an examination separate and apart from her husband, before a Judge of the Supreme Court of the State, Judge of the District Court, County Judge, or a Notary Public. If such instrument of writing be executed out of the State, then the acknowledgment must be made in the same manner, before some Judge of a Court of Record, having a seal, or before a Commissioner appointed under the authority of the State to take acknowledgment of deeds.

In order to secure to the wife her separate estate, it is necessary that a full and complete inventory of the same be made out and signed by her, acknowledged or proved in the manner required by law for the acknowledgment and proof of a conveyance of real estate. This schedule must be recorded in the office of the Recorder of Deeds for the county in which the wife resides; and if the inventory or schedule contains real estate situate in other counties, then it must also be recorded in the counties where such real estate is situate. The filing of such inventory in the Recorder's office, in the manner aforesaid, is notice to all the world of the wife's title to the property there described; and the same is exempt from seizure or execution for any debts or liabilities contracted by her husband. Neither is the

separate property of the husband liable for the debts of the wife contracted before marriage—but the separate property of the latter continues liable for such debts after the coverture.

Of the Widow's Dower.

No estate in dower is allowed to the wife upon the death of the husband, neither is the husband entitled to any estate as tenant by the curtesy on the death of the wife; but upon the dissolution of the marriage by the death of either party, one-half of the common property goes to the survivor, and the other half to the heirs or legal representatives of the deceased husband or wife, subject to the payment of the debts of the deceased—but if there be no descendants of the deceased husband or wife, then the survivor takes the whole, subject to the debts as aforementioned.

Of Interest and Usury.

The legal rate of interest, where there is no express contract in writing fixing a different rate, is ten per cent. per annum, for all moneys after they become due on any bond, bill, promissory note, or other instrument in writing; on any judgment, recovered in any Court of the State, for money lent, for money due on the settlement of accounts, from the day on which the balance is ascertained, and for money received to the use of another. But the parties to any contract, may stipulate in writing for the payment of any rate of interest they see proper for money due, or to become due upon such contract; and any judgment recovered upon the same, shall conform thereto, and bear the rate of interest agreed upon by the parties. And the parties may, in any contract or writing whereby any debt is secured to be paid, agree, that if the interest on such debt is not paid punctually, it shall become a part of the principal, and thereafter bear the same rate of interest as the principal debt.

LIST OF ATTORNEYS.

The following is a list of Attorneys with whom the undersigned has been in correspondence for a number of years, and through whom he has collected a large amount of money. They have been selected with especial regard to their reliability, efficiency, and promptness, and the undersigned, without hesitation, recommends them to the confidence of all who may require their services.

J. D. BROWN.

J. D. BROWN, has had charge of my collections for the last few years, which extends to every county in every State in the Union, and has had abundant opportunity to make himself acquainted with the Attorneys whose names he gives in the following list, and from the supervision I have myself exercised over that department of my business, I am enabled to endorse fully what he says relative to their character for promptness, efficiency, and reliability.

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*References:—*Dr. David Jayne, DeConcey, Lafourcade & Co., Philadelphia; Wm. Chesnut, Esq., Messrs. Wells & Miller, Messrs. Webb & Hopper, Geo. Harman, Esq., Baltimore; Hon. P. B. Hopper, Hon. R. B. Carmichael, Centreville; Pere Wilmer, Esq., Hon. J. Alfred Pearce, Chestertown; Hon. Alex. Evans, Elkton; Col. Samuel Hambleton, Easton.

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CHOCTAW.

Wetmore & Goodwin, Attorneys at Law, Tompkinsville.

CLARK.

Jno. W. Portis, Attorney at Law, Suggeville.

COFFEE.

A. Lorenzo Milligan, Attorney at Law, Geneva.

CONECUH.

Martin & Stallworth, Attorneys at Law, Sparta.

COOSA.

N. Smith Graham, Attorney at Law, Wetumpka.

COVINGTON.

Josiah Jones, Attorney at Law, Andalusia.

DALLAS.

Blake & Hewitt, Attorneys at Law, Selma.

FAYETTE.

Alvis Davis, Attorney at Law, Fayette.

HENRY.

Harper & Owens, Attorneys at Law, Abbeville.

JACKSON.

ROBINSON & COWAN,

ATTORNEYS AT LAW,

Bellefonte, Ala.

N. Robinson.

H. C. Cowan.

Will practise law in the Circuit and Chancery Courts of Jackson Madison, Morgan, Marshall, DeKalb, Cherokee, and Benton Counties in the Federal Court at Huntsville, and in the Supreme Court of the State. All business confided to them will receive their prompt and untiring attention. Particular pains will be taken to arrange and secure bad and doubtful claims.

LAUDERDALE.

S. A. M. Wood, Attorney at Law, Florence.

LAWRENCE.

Richard O. Pickett, Attorney at Law, Moulton.

LIMESTONE.

Jno. N. Malone, Attorney at Law, Athens.

LOWNDES.

George S. Cox, Attorney at Law, Haynesville.

MACON.

Wm. C. McIver, Attorney at Law, Tuskegee.

COUNTIES.

MADISON.

M. A. King, Attorney at Law, Huntsville.

MARENGO.

I. S. HARWELL,

ATTORNEY AT LAW, AND SOLICITOR IN CHANCERY,

Demopolis, Marengo County, Ala.

REFERS TO Hon. Jno. Bragg ; Hon. Amos R. Manning ; Messrs. A. E. & W. J. Ledyard ; S. H. St. John & Co., Mobile. Hon. F. S. Lyon ; Messrs. Houston & Walker ; Messrs. McLelland & Sharpe, Demopolis. Hon. Justice Gibbons, Supreme Court, Ala. Hon. Benj. G. Shields, Texas. Hon. Jer. Clemens, U. S. S.

Particular attention devoted to the Collection of Mercantile Claims of any amount.

MARSHALL.

Jno. Ryan, Attorney at Law, Warrenton.

MOBILE.

Anderson & Boyle, Attorneys at Law, Mobile.

MONROE.

R. C. Torry, Attorney at Law, Claiborne.

MONTGOMERY.

Williams & Cocke, Attorneys at Law, Montgomery.

MORGAN.

S. J. Wilkinson, Attorney at Law, Somerville.

PERRY.

King Parker, Attorney at Law, Marion.

PICKENS.

Alexander Clothrel, Attorney at Law, Carrollton.

PIKE.

Wiley & McCrow, Attorneys at Law, Troy.

RANDOLPH.

J. W. Gwinn, Attorney at Law, Weedowee.

RUSSELL.

John A. Lewis, Attorney at Law, Crawford.

ST. CLAIR.

Rufus W. Cobb, Attorney at Law, Ashville.

TALLADEGA.

J. & E. Woodward, Attorneys at Law, Talladega.

TALLAPOOSA.

W. H. Barnes, Attorney at Law, Dadeville.

TUSKALOOSA.

Cook & Van Hoose, Attorneys at Law, Tuskaloosa.

WILCOX.

J. T. Johnson, Attorney at Law, Camden.

COUNTIES.

FLORIDA.

ALACHUA.

Wm. Edwards, Attorney at Law, Micanopy.

COLUMBIA.

S. Scarborough, Attorney at Law, Alligator.

DUVAL.

PHILIP FRAZER,

ATTORNEY AT LAW,

Jacksonville, Fla.

FRANKLIN.

Robt. J. Floyd, Attorney at Law, Apalachicola.

GADSDEN.

Bolling Baker, Attorney at Law, Quincy.

HAMILTON.

Henry J. Stewart, Attorney at Law, Jasper.

HILLSBOROUGH.

James Gettis, Attorney at Law, Tampa Bay.

JACKSON.

WM. E. ANDERSON,

ATTORNEY AT LAW.

Mariana, Fla.

Will give prompt attention to the collection of Claims in the Counties of Jackson, Franklin, Calhoun, Washington, Holmes, Walton, Santa Rosa, Escambia, and Gadsden, Florida; and Henry, and Dale, Alabama.

JEFFERSON.

J. M. Smith, Attorney at Law, Monticello.

LEON.

Simon Toule, Attorney at Law, Tallahassee.

MARION.

Chas. A. M. Mitchell, Attorney at Law, Ocala.

MADISON.

Wm. M. Peacock, Attorney at Law, Madisonville.

PUTNAM.

Alfred H. Braham, Attorney at Law, Palatka.

ST. JOHNS.

Geo. Washington, Attorney at Law, St. Augustine.

SANTA ROSA.

J. M. Landrum, Attorney at Law, Milton.

WALTON.

Jno. F. Tervin, Attorney at Law, Uchee Anna

COUNTIES.

MISSISSIPPI.

ADAMS.

Carson & Shields, Attorneys at Law, Natchez.

AMITE.

Geo. T. Webb, Attorney at Law, Liberty.

ATTALA.

Campbell & Godfrey, Attorneys at Law, Kosciusko.

CARROLL.

Jones & Somerville, Attorneys at Law, Carrollton.

CHICKASAW.

J. N. Davis, Attorney at Law, Houston.

CLAIBORNE.

Henry T. Ellett, Attorney at Law, Port Gibson.

CLARK.

Wm. B. Trotter, Attorney at Law, Quitman.

COAHOMA.

Thos. M. Nash, Attorney at Law, Friars' Point.

COPIAH.

S. J. Morehead, Attorney at Law, Gallatin.

DE SOTO.

T. W. White, Attorney at Law, Hernando.

HARRISON.

Wm. A. Champlin, Attorney at Law, Mississippi City.

HINDS.

D. C. Glenn, Attorney at Law, Jackson.

HOLMES.**JOHN J. HOOKER,**

ATTORNEY AT LAW, AND GENERAL COLLECTING AGENT,
Lexington, Miss.

Will practice in Holmes, Yazoo, Carroll, and Attala Counties.

Prompt attention will be given to any business entrusted to his care in the Vice Chancery Court at Carrollton, and the Superior Courts at Jackson.

ITAWAMBA.**BULLARD & BEENE,**

ATTORNEYS AND COUNSELLORS AT LAW, AND SOLICITORS IN CHANCERY,
Fulton, Itawamba County, Miss.

A. B. Bullard.

R. O. Beene.

Will practise in the Circuit Courts of Itawamba, Pontotoc, Tipah, and Tishomingo Counties; also, in the Federal Courts at Pontotoc, in the Vice Chancery Court at Fulton, and in the High Court of Errors and Appeals at Jackson, Miss., and will attend to the collection of Claims anywhere in North Mississippi.

REFERENCES.—Colonel M. W. Lindsay, Memphis, Tenn.; John W.

Thompson, Ripley, Miss.; Judge H. R. Miller, Pontotoc, Miss.; Hon. Jas. Whitfield, Columbus, Miss.; Chancellor H. Dickson, Miss.; O. R. Singleton, Canton, Miss.; W. D. Clifton; J. & R. W. Tannahill; G. B. Gaither, Fulton, Miss.; Anderson, McLain & Co.; George Welby; Wm. Garvin & Co., Louisville, Ky.; Ex. Gov. Mathews, Salem, Miss.; Hon. J. H. R. Taylor, Holly Springs, Miss.; Hon. J. Thompson, Oxford, Miss.; Gen. R. Davis, Aberdeen, Miss.; Chancellor Ste. Cooke; Hon. Stephen Adams, Aberdeen, Miss.; Ex. Gov. Quitman, Natchez, Miss.; Hon. J. J. McRea, Quitman, Miss.; D. N. Cayce, Eastport, Miss.

COUNTIES.

JASPER.

Shannon & Street, Attorneys at Law, Paulding.

KEMPER.

James Watts, Attorney at Law, De Kalb.

LA FAYETTE.

E. K. Belcher, Attorney at Law, Oxford.

LAUDERDALE.

W. M. Hancock, Attorney at Law, Marion.

LAWRENCE.

J. R. Harris, Attorney at Law, Monticello.

MADISON.

A. H. Handy, Attorney at Law, Canton.

MARSHALL.

Stearns & Harris, Attorneys at Law, Holly Springs.

MONROE.

DOWD & HAUGHTON,

(Successors to Dowd & Murphy,)

ATTORNEYS, AND GENERAL COLLECTING AGENTS,

For North Mississippi,

Aberdeen, Miss.

REFERENCES.—A. R. Frothingham; Henrys, Smith & Townsend; Lewis B. Brown; Harrall, Sproules & Co.; Alfred Edwards & Co.; Rankin, Duryee & Co., New York; R. Desha & Co.; Garner, Neville & Co.; Boykin, McRae & Foster; Wm. R. Hallett, Mobile; Smith & Shotwell, Louisville.

NEWTON.

W. Safford, Attorney at Law, Decatur.

NOXUBEE.

Foote & Hopkins, Attorneys at Law, Macon.

OKTIBBEHA.

Chas. F. Miller, Attorney at Law, Starkville.

PANOLA.

CALVIN MILLER.

ATTORNEY AND COUNSELLOR AT LAW,

Panola, Miss.

Prompt attention will be given to the Collection of Claims in Panola, and the adjacent Counties.

COUNTIES.

PERRY.

D. Barrett, Attorney at Law, Augusta.

PIKE.

J. T. & J. S. Lamkin, Attorneys at Law, Holmesville.

PONTOTOC.

W. H. Kilpatrick, Attorney at Law, Pontotoc.

RANKIN.

Ware & Shelby, Attorneys at Law, Brandon.

SCOTT.

E. R. Buckner, Attorney at Law, Hillsborough.

SIMPSON.

H. T. Johnson, Attorney at Law, Westville.

SUN FLOWER.

Oscar F. Bledsoe, Attorney at Law, McNutt.

TIPPAH.

Orlando Davis, Attorney at Law, Ripley.

WARREN.

H. J. Harris, Attorney at Law, Vicksburg.

WASHINGTON.

Nathan Ross, Attorney at Law, Point Worthington.

WILKINSON.

H. S. Van Eaton, Attorney at Law, Woodville.

WINSTON.

Jno. M. Dickerson, Attorney at Law, Louisville.

YALOBUSHA.**N. C. SNIDER,**ATTORNEY AT LAW, AND GENERAL COLLECTING AGENT,
Coffeeville, Miss.

Practises in the Circuit Courts of Yalobusha, Tallahatchie, Carroll, Lafayette, Panola, De Soto, Marshall, Lowndes, and Monroe Counties: also, in the U. S. Court at Pontotoc.

Special attention given to the collection of Debts in any County of North Mississippi.

REFERENCES.—New York—Wolfe, Gillespie & Co.; Wolfe & Bishop; Henrys, Smith & Townsend; Perkins, Brooks & Co.; Townsend, Arnold & Co.; Trowbridge, Dwight & Co.; R. C. Wetmore & Co.; Wright, Betts & Co. Philadelphia—Martin & Smith; Haddock, Reed & Co.; Frederick Klett & Co.; Edward S. Handy; Wood, Bacon & Co.; Burnett, Withers & Co.; Taylor & Paulding; Caleb Cope & Co. Baltimore—Murdoch, Duer & Evans; Sangston & Co.; W. G. Thomas; Cushings & Bailey; W. F. & A. Murdoch; Noah Walker & Co. New Orleans—Payne & Harrison; Felix, Walker & Co.; McLemore, Curran & Co.; Jno. & Geo. Cromwell; J. Burnside & Co. Memphis, Tenn.—H. C. Walker, Esq.; F. W. Smith, Cash., Union Bk.; W. B. Miller & Co.

YAZOO.

J. H. Lawrence, Attorney at Law, Yazoo.

LOUISIANA.

PARISHES.

ASCENSION.

R. A. Upton, Attorney at Law, New River.

AVOYELLES.

F. P. Hitchborn, Attorney at Law, Marksville.

CADDO.

CRAIN & NUTT,

ATTORNEYS AND COUNSELLORS AT LAW,

Shreveport, La.

REFERENCES.—Wright, Williams & Co.; R. W. Montgomery, New Orleans; Trowbridge, Dwight & Co.; L. M. Wiley & Co., New York; Oglesby & Griswold; Green, Douglass & Co., Allen & Paxton, Shreveport.

N. B.—Always send the names of your firm.

L. P. Crain.

L. M. Nutt.

CALCASIEU.

S. A. Kirby, Attorney at Law, Lake Charles.

CARROLL.

H. R. Bonner, Attorney at Law, Lake Providence.

CATAHOULA.

Alex. R. Hendry, Attorney at Law, Harrisonburgh.

CLAIBORNE.

Young & Thomasson, Attorneys at Law, Homer.

CONCORDIA.

H. Basil Shaw, Attorney at Law, Vidalia.

DE SOTO.

Elam & Hamilton, Attorneys at Law, Mansfield.

EAST BATON ROUGE.

J. W. Seymour, Attorney at Law, Baton Rouge.

EAST FELICIANA.

E. T. MERRICK,

ATTORNEY AND COUNSELLOR AT LAW,

Clinton, East Feliciana, La.

IBERVILLE.

Adonis Pettit, Attorney at Law, Iberville.

JEFFERSON.

Augustus W. Jourdon, Attorney at Law, La Fayette City.

LA FOURCHE.

B. F. Holden, Attorney at Law, Thibodeaux.

MADISON.

James J. Armonette, Attorney at Law, Richmond.

PARISHES.

MOREHOUSE.

David Newton, Attorney at Law, Bastrop.

NATCHITOCHES.

W. J. Hamilton, Attorney at Law, Natchitoches.

ORLEANS.

J. REDMAN COXE,

ATTORNEY AND COUNSELLOR AT LAW,

No. 77 Common Street, New Orleans, La.

REFERENCES.—Hon. Horace Binney; Hon. David Paul Brown; Charles Norris, Esq., Philadelphia. Capron & Gwinn, Baltimore; John R. Kennedy, Esq.; Seaman, Peck & Co., New York. Harrod & Darling; H. B. Sargeant, Boston. Hon. E. Bradford; G. A. Breauz, Esq.; Kelly, Conyngham & Co.; J. J. McMahon; McCutcheon, Howell & Co., New Orleans.

Particular attention given to Collecting.

RAPIDES.

J. W. Gordon, Attorney at Law, Alexandria.

SABINE.

E. C. Davidson, Attorney at Law, Manny.

ST. HELENA.

J. F. Thompson, Attorney at Law, Greensburgh.

ST. LANDRY.

J. & E. N. Cullom, Attorneys at Law, Opelousas.

ST. MARTINS.

Frederick Gates, Attorney at Law, St. Martinsville.

ST. MARYS.

J. W. Walker, Attorney at Law, Franklin.

ST. TAMMANY.

J. R. & J. D. Jones, Attorneys at Law, Covington.

TENSAS.

Peter Alexander, Attorney at Law, St. Josephs.

UNION.

Regenburg & Essick, Attorneys at Law, Farmersville.

WACHITA.

McGuire & Ray, Attorneys at Law, Monroe.

WEST FELICIANA.

SAML. J. POWELL,

ATTORNEY AT LAW,

St. Francisville, West Feliciana, La.

TEXAS.

COUNTIES.

ANDERSON.

Andrew J. Fowler, Attorney at Law, Palestine.

AUSTIN.

Zimri Hunt, Attorney at Law, Bellville.

BASTROP.

E. P. Petty, Attorney at Law, Bastrop.

BELL.

D. T. Chamberlin, Attorney at Law, Nolandville.

BOWIE.

Ellett & Lindsay, Attorneys at Law, Boston.

BRAZORIA.

Peter McGreal, Attorney at Law, Brazoria.

CALDWELL.

Rogan & Cowan, Attorneys at Law, Lockhart.

CALHOUN.

Sterling T. Seawell, Attorney at Law, Indianola.

CAMERON.

F. Cummings, Attorney at Law, Brownsville.

CASS.

Moseley & Benners, Attorneys at Law, Jefferson.

CHEROKEE.

SHANKS, BONNER & BONNER,

ATTORNEYS AND COUNSELLORS AT LAW,

Rusk, Cherokee County, Texas.

Will attend promptly to all business confided to them in the Counties Cherokee, Rusk, Harrison, Smith, Cass, Upshur, Anderson, and Nacogdoches, Eastern Texas, and in the Supreme and Federal Courts at Tyler.

Particular attention given to Collections, and the investigation of Land Titles. Will act as agents in the sale of Land.

REFERENCES, by permission.—Hon. Thos. J. Rusk, U. S. Senator; Hon. G. W. Smyth, M.C.; Charles Shearn, Houston; R. & D. G. Mills; David Ayres, Galveston, Texas. L. M. Wiley & Co., New York. S. E. Gruman & Co.; Moses Greenwood & Co.; J. R. Marshall & Co.; Montross & Stilwell; A. J. Wright & Co.; Thomas C. Payan & Co.; Tirrell & Bates; Dowsing & Young; Samuel Barrett; Hon. Robt. W. James, New Orleans, La.

A. H. Shanks.

M. H. Bonner.

F. W. Bonner.

COLLIN.

Alex. Berry, Attorney at Law, McKinney.

COMAL.

G. H. Sherwood, Attorney at Law, New Braumfels.

COUNTIES.

DALLAS.

J. M. Crockett, Attorney at Law, Dallas.

FANNIN.

Rich'd. S. Hunt, Attorney at Law, Bonham.

FAYETTE.

J. W. Chandler, Attorney at Law, La Grange.

FORT BEND.

Waller & Jones, Attorneys at Law, Richmond.

GALVESTON.

David Ayres, Collecting Agent, Galveston.

Gives special attention to the collection of Claims throughout Western Texas.

GAUDALUPE.

Ireland & Perryman, Attorneys at Law, Seguin.

GONZALES.

Parker & Fly, Attorney at Law, Gonzales.

HARRIS.

JOHN A. HANCOCK,

ATTORNEY AT LAW,

Houston, Harris County, Texas.

Will practise in Austin, Fort Bend, and Brazoria Counties, in the first District, and Montgomery, Grimes, and Harris Counties in the seventh, and in the Supreme Court at Galveston.

Particular attention given to Land and Collecting business.

REFERENCES.—R. E. B. Baylor, Judge of the third District; Hon. J. Hancock, Judge of the second District; Judge W. S. Oldham, Austin; Gen. T. J. Jennings, Attorney General; Gov. J. W. Henderson, Houston; Hon. H. S. Foote, and Gov. J. W. Mathews, of Mississippi; Hon. Jas. Reily, Houston; Hon. T. A. Marshall, Chief Justice Supreme Court, Kentucky.

HARRISON.

Moselev & Hall, Attorneys at Law, Marshall.

HOPKINS.

A. L. Gray, Attorney at Law, White Oak.

HOUSTON.

Yoakum & Taylor, Attorneys at Law, Crockett.

JACKSON.

B. J. White, Attorney at Law, Texana.

JASPER.

Thos. H. Brennan, Attorney at Law, Brennan.

JEFFERSON.

Fred'k. W. Ogden, Attorney at Law, Beaumont.

LAVACCA.

W. B. B. Mills, Attorney at Law, Petersburg.

COUNTIES.

LIMESTONE.

D. M. Prendergast Attorney at Law, Springfield.

MONTGOMERY.

A. Hemphill, Attorney at Law, Montgomery.

NACOGDOCHES.

W. B. Ochiltree, Attorney at Law, Nacogdoches.

NAVARRO.

J. R. Loughridge, Attorney at Law, Corsicana.

NEUCES.

Walter Merriman, Attorney at Law, Corpus Christi.

POLK.

Wm. Reid Moore, Attorney at Law Livingston.

RED RIVER.

Summers & Clark, Attorneys at Law, Clarksville. .

ROBERTSON.

Henry Reed, Attorney at Law, Franklin.

RUSK.

Ben. Smither, Attorney at Law, Henderson.

Practises in all the Courts of Eastern Texas.

SAN AUGUSTINE.

James M. Ardry, Attorney at Law, San Augustine.

SHELBY.

D. M. Short, Attorney at Law, Shelbyville.

SMITH.

Robt. B. Wells, Attorney at Law, Tyler.

TRAVIS.

Peck & De Normandie, Attorneys at Law, Austin.

UPSHUR.

Camp & Williams, Attorneys at Law, Gilmore.

VICTORIA.

W. S. Glass, Attorney at Law, Victoria.

WALKER.

Yoakum & Branch, Attorneys at Law, Huntsville.

WASHINGTON.

Geo. W. Horton, Attorney at Law, Washington.

WILLIAMSON.

J. A. Houghton, Attorney at Law, Georgetown.

WOOD.

D. O. Norton, Attorney at Law, Quitman.

COUNTIES.

ARKANSAS.

BENTON.

Jas. H. Hobbs, Attorney at Law, Bentonville.

BRADLEY.

C. A. Slaughter, Attorney at Law, Warren.

CLARK.

Hardy & Witherspoon, Attorneys and Counsellors at Law,
Arkadelphia.

Special attention given to the collection of Claims in Clark and adjoining Counties.

CRAWFORD.

JESSE TURNER,

ATTORNEY AT LAW,

Van Buren, Ark.

Continues to practise Law in the Western Counties of Arkansas, and will attend specially to the collection of Claims in Western Arkansas, and the Indian Territory.

CRITTENDEN.

R. P. Tally, Attorney at Law, Marion.

DALLAS.

Theodoric F. Sorrells, Attorney at Law, Princeton.

DREW.

Jno. S. Winter, Attorney at Law, Monticello.

GREENE.

P. K. Lester, Attorney at Law, Gainesville.

HEMPSTEAD.

Thos. Hubbard, Attorney at Law, Washington.

HOT SPRINGS.

W. J. Willoughby, Attorney at Law, Hot Springs.

INDEPENDENCE.

J. H. Byers, Attorney at Law, Batesville.

JACKSON.

A. W. White, Attorney at Law, Augusta.

JEFFERSON.

Warren L. Bell, Attorney at Law, Pine Bluff.

JOHNSON.

J. W. Woodward, Attorney at Law, Clarksville.

LA FAYETTE.

W. S. McCarty, Attorney at Law, Lewisville.

COUNTIES.

MADISON.

D. L. Sanders, Attorney at Law, Huntsville.

MARION.

James A. Wilson, Attorney at Law, Yellville.

MONROE.

S. J. Brandenburg, Attorney at Law, Laurenceville.

PHILLIPS.

D. Bruton, Attorney at Law, Helena.

POLK.

D. W. Colkett, Attorney at Law, Dover.

PULASKI.

Pike & Cummins, Attorneys at Law, Little Rock.

RANDOLPH.

A. C. Harris, Attorney at Law, Pocahontas.

ST. FRANCIS.

S. W. Childress, Attorney at Law, Mt. Vernon.

SALINE.

W. K. English, Attorney at Law, Benton.

SEVIER.

Isaac N. Jackson, Attorney at Law, Paraclifta.

WASHINGTON.

Andrew W. Brownlee, Attorney at Law, Fayetteville.

WASHITA.

Warren & Gallagher, Attorneys at Law, Camden.

WHITE.

J. W. McConaghy, Attorney at Law, Searcy.

YELL.

Thos. W. Pound, Attorney at Law, Danville.

TENNESSEE.**ANDERSON.**

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BEDFORD.

G. W. Buchanan, Attorney at Law, Shelbyville.

BENTON.

J. G. Sims, Attorney at Law, Camden.

BLEDSON.

C. M. Northrup, Attorney at Law, Pikeville.

BLOUNT.

S. J. McReynolds, Attorney at Law, Marysville.

COUNTIES.

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CAMPBELL.

W. Richardson, Attorney at Law, Jacksonborough.

CANNON.

A. Burger, Attorney at Law, Woodbury.

CARTER.

Taylor & Love, Attorneys at Law, Happy Valley.

CLAIBORNE.

F. M. Fulkerson, Attorney at Law, Tazewell.

COFFEE.

P. C. Isbell, Attorney at Law, Manchester.

DAVIDSON.

P. G. Stiver Perkins, Attorney at Law, Nashville.

DECATUR.

Jesse Taylor, Attorney at Law, Perryville.

DICKSON.

Robt. McNeilly, Attorney at Law, Charlotte.

DYER.

Chas. C. Moss, Attorney at Law, Dyersburg.

FAYETTE.

L. P. Jones, Attorney at Law, Somerville.

FRANKLIN.

Collins & Carter, Attorneys at Law, Winchester.

GIBSON.

J. A. McDearman, Attorney at Law, Trenton.

GILES.

Walker & Brown, Attorneys at Law, Pulaski.

HAMILTON.

Welcker & Key, Attorneys at Law, Chattanooga.

HARDEMAN.

Thos. W. Averill, Attorney at Law, Bolivar.

HARDIN.

T. A. Jones, Attorney at Law, Savannah.

HAWKINS.

A. A. Kyle, Attorney at Law, Rogersville.

HAYWOOD.

Freeman & Turner, Attorneys at Law, Brownsville.

HENDERSON.

W. D. Belvate, Attorney at Law, Lexington.

COUNTIES.

HENRY.

Dunlap & Porter, Attorneys at Law, Paris.

HICKMAN.

J. Williams, Attorney at Law, Centreville.

HUMPHREYS.

James M. Harris, Attorney at Law, Waverly.

JACKSON.

James A. Spurlock, Attorney at Law, Gainsborough.

JEFFERSON.

Caswell & Swan, Attorneys at Law, Dandridge.

KNOX.

W M . G . M c A D O O ,

ATTORNEY AT LAW,

Knoxville.

Will give especial attention to the collection of Claims in Knox, and the adjacent Counties. Business entrusted to his care will receive prompt attention.

LAUDERDALE.

John Sutherlin, Attorney at Law, Ripley.

LAWRENCE.

Henry L. Burkett, Attorney at Law, Lawrenceburgh.

LEWIS.

John S. Hunter, Attorney at Law, Newburgh.

McMINN.

W. Lowry, Attorney at Law, Athens.

McNAIRY.

J. C. Jimerson, Attorney at Law, Purdy.

MACON.

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MARION.

Thos. H. Hopkins, Attorney at Law, Jasper.

MAURY.

J. A. McReady, Attorney at Law, Columbia.

MONTGOMERY.

Robb & Bailey, Attorneys at Law, Clarksville.

OBION.

Cochran & Enloe, Attorneys at Law, Troy.

OVERTON.

W. E. B. Jones, Attorney at Law, Livingston.

PERRY.

Thomas M. Jones, Attorney at Law, Linden.

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ROANE.

Patterson & Smith, Attorneys at Law, Kingston.

ROBERTSON.

Washington Lowe, Attorney at Law, Springfield.

RUTHERFORD.

Ellis & Hancock, Attorneys at Law, Murfreesborough.

SHELBY.

C. Kortrecht, Attorney at Law, Memphis.

SMITH.

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STEWART.

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WARREN.

Jno. L. Spurlock, Attorney at Law, McMinnville.

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J. E. Murphy, Attorney at Law, Jonesborough.

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Henry L. Burkett, Attorney at Law, Waynesborough.

WEAKLEY.

Jno. A. Gardner, Attorney at Law, Dresden.

WILLIAMSON.

Davis Campbell, Attorney at Law, Franklin.

WILSON.

Ed. J. Golladay, Attorney at Law, Lebanon.

KENTUCKY.

ADAIR.

Wm. E. Russell, Attorney at Law, Columbia.

ALLEN.

Barlow & Grider, Attorneys at Law, Scottsville.

BALLARD.

Thos. H. Corbett, Attorney at Law, Blundville.

BARREN.

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COUNTIES.

BATH.

Trumbo & Lacy, Attorneys at Law, Owingsville.

BOONE.

Ed. S. Armstrong, Attorney at Law, Burlington.

BOURBON.

Franklin Kennedy, Attorney at Law, Paris.

BOYLE.

Boyle & Anderson, Attorneys at Law, Danville.

BRACKEN.

Payne & Bond, Attorneys at Law, Brookville.

BRECKENRIDGE.

Jefferson Jennings, Attorney at Law, Hardinsburgh.

BULLITT.

Nathan P. Sanders, Attorney at Law, Mt. Washington.

CALLAWAY.

Jas. P. Culver, Attorney at Law, Murray.

CAMPBELL.

F. M. Webster, Attorney at Law, Newport.

CARTER.

J. R. Botts, Attorney at Law, Grayson.

CASEY.

Hiram Thomas, Attorney at Law, Liberty.

CHRISTIAN.

Sam. M. Bernard, Attorney at Law, Hopkinsville.

CLARK.

Huston & Downey, Attorneys at Law, Winchester.

CLAY.

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All letters (post-paid,) addressed to us at Lexington, Mo., shall receive immediate attention.

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Collections throughout North Mississippi promptly attended to.

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